Illuminating Leviticus

A Study of Its Laws and Institutions in the Light of Biblical Narratives

Calum Carmichael

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A Study of Its Laws and Institutions in the Light of Biblical Narratives

CALUM CARMICHAEL

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Preface

This book is an attempt to transform our understanding of the laws of Leviticus, to show that while these laws may well seem excessively dry and strange, fundamentally—and startlingly—they concern some of the most dramatic incidents and famous personages in biblical sources. We will encounter, among others, Noah of the Flood narrative, the Philistines of the plague narrative, Joseph in his battle with his brothers (a great deal of him, in fact), Rachel and Onan in their uncleanness, and the renowned descendants David and Jonathan.

Collections of biblical rules appear in a narrative that stretches from Genesis to 2 Kings. The narrative records how the universe began, the beginnings of humankind, the first fathers of the Israelite nation, its first institutions, and those persons first and last associated with them until the exile to Babylon. There exists, I claim, a fundamental connection between the rules and the stories about first happenings recorded in this epic.

I do not agree with the common view that the rules found in the Bible are responses to issues that came up at different times during the actual history of ancient Israel. Rather, the rules exhibit a feature that so often underlies legal systems. National and ethnic groups attempt to link their laws to legendary history and to locate the foundations of their laws as far back in time as possible. In the case of ancient Israel, scribes created, I submit, a fiction about the origin of their nation's laws. They took up topics they found in the traditions of their own people's ancient history, in stories that were set down in the books from Genesis to 2 Kings. From their own ethical, legal, and historical standpoint, the scribes responded to selected issues in these traditions and set out their judgments, expressed in the form of rules, at different points in the Pentateuch. The latter should not be separated in any way (as conventional scholarship in the past has sought to do) from Joshua–2 Kings, a body of material that so plainly continues the narrative line starting in Genesis 1 and running through and beyond Deuteronomy 34.

When combining the stories from Genesis to 2 Kings, the scribes carefully wove

together laws and narratives by placing collections of rules at points of crucial beginnings in the flow of the overall narrative. They formulated, for example, the deity's rules about killing animals and humans at the fresh beginning of the world after the Flood (Genesis 9). The Decalogue, the Book of the Covenant (rules in Exodus 21–23), and the succeeding rules about the institution of the cult they placed at the start of the nation after the exodus from Egypt. The laws of Leviticus they put immediately after the setting up of the Tabernacle (on the first day of the first month in the second year after leaving Egypt, Exod 40:17), and the laws of Deuteronomy they set down in anticipation of the Israelites starting a new life in the land of Canaan. As it happens, a feature that the narratives and laws share in common is that each also highlights first-time developments in the history and prehistory of the nation Israel. Whether narrative, law, or placement of law code, the spotlight was primarily on seminal events as they are depicted in Genesis–2 Kings.

From a different perspective, the rules are the literary forms that reveal a thorough redaction of the history that is recounted in Genesis–2 Kings. Insofar as critics speak of a D (Deuteronomic) and P (Priestly) redaction of biblical material (Pentateuch and the Historical Literature), I am building on, much extending, and greatly modifying their insights.

The introductory chapter sets out my claim that the key to comprehending biblical legal material is the recognition that what inspires the formulation of biblical rules are incidents in biblical narratives, not the actual history of ancient Israel that scholars infer from these rules and narratives. The close link between narrative and rule enables us time and again to solve hitherto baffling legal, linguistic, and literary puzzles. Chapters 1–10 continue what has become a rather extensive project of mine to examine every law in the Pentateuch with a view to demonstrating that each is linked to a narrative. My book, *Law, Legend, and Incest in the Bible: Leviticus 18–20* (Ithaca, 1997), focused on the (mainly) incest laws in Leviticus 18–20. The aim of this volume is to analyze many more laws in Leviticus by a close reading of the material in Leviticus 10–27 (excluding 18–20).

Chapter 1 looks at a succession of well-known rules in Leviticus 10–14, dealing with clean and unclean food, childbirth, and skin diseases. In accounting for them, I turn to the stories of the Flood, the wickedness of the priestly house of Eli, and the plagues visited upon the Philistines. Chapter 2 concentrates on the laws concerning genital discharges of Leviticus 15, and here we will have occasion to link the uncleanness attributed by King Saul to David, to his son Jonathan, and to Jonathan's mother back to Onan's infamous act of spilling his seed and Rachel's claim to be menstruating when unable to arise before her father.

Chapters 3 and 9 look at the origin of the Day of Atonement (Leviticus 16) and

the origin of the Year of Jubilee (Leviticus 25) and argue for a fundamentally different understanding of institutions that have long been shrouded in mystery. Both institutions involve perennial concerns. Focusing on renewal, the Day of Atonement is about relief from the burden of personal and communal wrongdoing. The Year of Jubilee, in turn, is about radical political and economic renewal in society at large. The key developments for comprehending each institution are, respectively, the quest for forgiveness on the part of the brothers of Joseph for mistreating him and Joseph's policy in Egypt for coping with mass starvation.

Chapter 4 addresses one of the most enduring controversies in biblical scholarship—namely, how to evaluate a rule that apparently, but astonishingly, requires that whenever anyone in the nation wishes to slaughter a domestic animal he must bring it to the sanctuary for slaughter (Lev 17: 2–9). Rejecting standard views, I give an argument for connecting each element of the rule to the story of Joseph in Genesis 37. Chapter 5 proposes a solution to the major problem about the role of blood in biblical ritual (Lev 17:10–16). The story of Joseph again proves most revealing.

Any study of the laws of Leviticus is likely to touch on different facets of sexuality. Chapter 6 takes up a curious and much misunderstood aspect of priestly sexuality (Leviticus 21). A key story is the one in Judges 19 about the Levite who cuts into twelve pieces the body of his sexually abused concubine and sends them to the other tribes of Israel. Chapter 7 also focuses, in part (Lev 22:12, 13), on sexuality when it examines the incident in which David claims that he and his companions (nonexistent as it turns out) have kept themselves from women and can therefore eat food that only the priests at the sanctuary are supposed to eat. Chapter 8 looks at the topic of blasphemy in an incident described in Leviticus 24. The lawgiver has under scrutiny the many facets of blasphemy that show up with the sons of Eli, David, and Doeg in 1 Samuel and with the falsely accused Naboth of 1 Kings 21.

A major and obvious problem is that often we find in different locations in the Pentateuch rules exhibiting both overlap and striking differences about the same topic. Whereas the standard approach is to assume that societal developments over time account for the similarities and the differences, I offer my own approach here. In Chapter 10, I examine the rules about slavery in Exodus, Leviticus, and Deuteronomy and suggest that every detail of each of the three rules can be explained by relating their subject matter to the contents of three different narrative incidents: Jacob serving Laban, Israel under the pharaoh in famine-stricken Egypt, and Israel enslaved in Egypt. The discussion highlights that most controversial of questions: how do we account for the composition of the Pentateuch?

In quoting biblical texts I have relied on the King James Authorized Version of 1611 but made changes where these were called for. I have used the AV, because it is

almost always a more literal rendering of the Hebrew original than any other translation. Its language is archaic but has the merit of reminding the reader that the past is a foreign country, an important consideration in interpreting texts that, because they continue to be invoked in public discourse today, are often read from a modern perspective.

Illuminating Leviticus

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The Nature of Biblical Law

A marked feature of biblical laws is that they are mainly attributed to Moses. Examples are the Book of the Covenant in Exodus 21:2–23:19, the laws in Deuteronomy 12–26, and the rules in the books of Numbers and Leviticus. Only exceptionally does God communicate rules directly: on permission to kill animals for meat and on homicide to Noah and his sons in Genesis 9, on circumcision to Abraham in Genesis 17, and the Decalogue in Exodus 19 and Deuteronomy 5.

Various collections of legal material are incorporated at different points in a narrative history that stretches from Genesis to 2 Kings. The final set, the laws of Deuteronomy, is given at the point in time when Moses is about to die and the people of Israel are about to enter the land of Canaan. The scribes responsible for this merging of law and narrative, adopting a convention common in the ancient world, attributed their own creation to a great figure of the past. Thus they made of Moses a legendary figure who, in the rules he enunciated, judged past and contemporary developments in his nation's history as recorded in Genesis–Deuteronomy (the Pentateuch) and also anticipated future ones as recorded in Joshua–2 Kings (the Historical Literature). This legendary Moses took up problems that existed among his ancestors (the kidnapping of Joseph, for instance), that occurred in his own time (his sister's leprosy), and that would occur long after he lived (the appointment of a king in Israel).[1] The literary traditions in Genesis–2 Kings contain all of the issues taken up in the laws, legendary history and law being intimately linked.

If, to date, our knowledge of biblical law is but the knowledge of a track amid tangled territory, the unexplored route of arriving at the laws by locating their inspiration in the narratives broadens the track considerably. The move is from the extra-

ordinary in the narrative to the more commonplace in the rule. By working out the links between the laws and the individual narratives, not only can we explain why the laws contain the issues they do, but we can also account for the often peculiar language of the laws and why they are set out in sequences that often bewilder. In the Decalogue, for instance, a rule about murder curiously comes after a rule about honor to parents. The rule about honoring parents includes the promise of living long upon the ground (*'adamah*), not land (*'erets*). The explanation of the sequence and the language is that the compiler's focus is Cain's deed of dishonoring his parents when he murders Abel, the other son produced by his parents' act of procreation. The consequence of the murder is that he is no longer permitted to till the ground (*'adamah*).[2] The lawgiver's invariable habit was to seek out the first instance of a problem in the nation's history or prehistory—hence his choice of Cain's murder of Abel.

It should be noted that in the body of texts extending from Genesis through 2 Kings, the law codes are found only in the books of Exodus through Deuteronomy. The reason is that these books, Exodus through Deuteronomy, recount the birth of Moses and the course of his life (and death). Genesis recounts matters that are relevant to the appearance of Moses at a certain point in history and, in fact, does include laws, though they are uttered by God and not by Moses. The largely narrative texts from Joshua through 2 Kings relay matters that relate back to Moses's concern for the future of his nation and occur after his death.[3] The laws are given their place in the flow of a narrative that is itself very much taken up with beginnings. The narrative record (to be selective) opens with an account of how the universe begins (Genesis 1), how humans acquire the emotion of shame that distinguishes them from the animals, how different languages come into being, and how the world has to begin again after a catastrophic flood. There follow accounts of the first families associated with the Israelites (Abraham's, Isaac's, Jacob's). A narrative about the beginnings of the nation Israel (the coming together of Jacob, Joseph, and his brothers in Egypt and the subsequent exodus under the leadership of Moses) is next. Legends follow about how the nation acquires institutions (the Passover ceremony), a judicature (from Moses's father-in-law Jethro), and fundamental norms (the Decalogue). Throughout Genesis–2 Kings there is a continuing focus on beginnings, for instance, the institution of judges, the monarchy, and, in Leviticus, the institution of the priesthood. The concern with beginnings might be obvious but nonetheless needs stressing because Moses's judgments are taken up with them.

As we follow the formative experiences that create the identity of the Israelites, we find that the ancient writers are struck by the fact that what happens in one generation repeats itself in another.[4] If a family has a problem with its firstborn son

(Abraham's Ishmael), the next generation does also (Isaac's Esau and then Jacob's Reuben). If a member of one generation experiences oppression in foreign parts (Jacob under Laban), so does a member of the next (Joseph as a slave in Egypt), and members of the next again (all Jacob's clan under the pharaoh). Moses's first miracle for the people marching through the wilderness is the sweetening of bitter waters (Exod 15:23–26), and Elisha's first deed for the people is the healing of evil waters (2 Kgs 2:19–22).

Like the recorders of the narratives, the lawgivers too focused on the first time that problems arose and how they recurred down through the generations. Positioned at certain points in history (or prehistory), God (who gave the rules after the Flood ends, and the Decalogue after the Exodus from Egypt) and Moses (who during his lifetime gave rules in Exodus 21–23, Deuteronomy 12–26, and Leviticus) looked backward and forward to the first occurrence of a problem in the history (and prehistory) of the nation and to its recurrence. In reality, an actual lawgiver—I will use the singular because the process is always the same—looked at the first time that some problem arose and also noted its reappearance in succeeding generations. Each doing the same thing in his own way, lawgiver and narrator complemented each other in producing a written edifice that conveyed the nation's history and identity.[5]

STORY GENERATING LAW

In an example drawn from outside the book of Leviticus, we can see just how fascinating—and ingenious—is the process whereby a narrative prompts the presentation of a rule. The rule presupposes intimate knowledge of the narrative and, indeed, cannot be understood without it. It is important to keep in mind that the laws and the narratives are recorded together. I emphasize this point because when we read the laws today and ask the question how we or other hearers or readers of the laws in times past are to pick up on the links, the answer is, simply, that the laws and the narratives are bound together as a unified whole.

Rule	*Narrative*
Deut 24:19–22. The needy are to receive gleanings from the harvesting of an Israelite's field, olive grove, and vineyard. In obtaining grain, however, they only receive some if the harvester has forgotten a sheaf in his field.	Genesis 37–50. Joseph has a dream in which sheaves of grain, his brothers, bow down to a standing sheaf, himself. The dream comes true only after Joseph is forgotten, but then remembered as an interpreter of dreams.

The first time in the history of the nation when a welfare policy is put in place to take care of the needs of the underprivileged occurs in Egypt in the time of Joseph. The policy influences the way in which the lawgiver chose to formulate a law about feeding the needy when Israel takes up residence in its own land. The formulation contains a decidedly odd feature that is the clue to the link between it and the Joseph story. The rule in Deut 24:19–22 reads:

> When thou cuttest down thine harvest in thy field, and hast forgot a sheaf in the field, thou shalt not go back to fetch it: it shall be for the stranger, for the fatherless, and for the widow: that Yahweh thy God may bless thee in all the work of thy hands. When thou beatest thine olive tree, thou shalt not go over the boughs again: it shall be for the stranger, for the fatherless, and for the widow. When thou gatherest the grapes of thy vineyard, thou shalt not glean it afterward: it shall be for the stranger, for the fatherless, and for the widow. And thou shalt remember that thou was a bondman in Egypt: therefore I command thee to do this thing.

The first part of the rule concerns a forgotten sheaf of grain at harvesttime. Only if the farmer forgets that he has left the sheaf in his field, then remembers that he has forgotten it, has he to refrain from returning to fetch it. He has instead to leave it in the field to be picked up by the needy. But there is no guarantee that a farmer will forget the sheaf, much less that he will remember that he has forgotten. As a rule encapsulating the principle of solicitude for the poor, this rule would certainly be inadequate and the practice unreliable. No wonder that in Rabbinic literature we find statements such as, "All the commands in the Torah were given us by God to be observed knowingly, but this one we can observe only unknowingly. For if we seek to keep it deliberately, it cannot be kept, since it is ordained only for forgetfulness" (*t. Peah* 3:8; *Siphra* 27a). What highlights the curiously impractical instruction about the grain is the fact that the rule goes on in a perfectly rational spirit to urge the farmer not to beat his olive trees a second time and not to glean his vines a second time. To refrain from doing so will guarantee that the needy can indeed take what is left of the olives and the grapes.

Critics who are alert to the puzzling feature of the first part of the rule resort to a religious explanation. The rule, they believe, must preserve a matter of great antiquity that goes back to a time prior to the kind of Israelite religion found in the Bible. The claim is that a sheaf of grain was originally left in the field as a propitiatory offering to a god.[6]

The rule's curious feature, in fact, has nothing to do with a relic of remote antiquity in the sense that the critics assume. Rather, it is the lawgiver himself who utilized an almost universal belief in the authority of the past—a quite different mat-

ter. I suggest that the rule harks back to the problem of famine in Egypt as described in the book of Genesis. The rule's intent is to evoke the role of Joseph in obtaining food for the Egyptians and his own family in bad times. Recall that in the first of Joseph's dreams he sees himself at harvesttime as a sheaf of grain surrounded by other sheaves, all of which bow down to him. Joseph's dreams are from God and refer to future developments. The dream about the sheaves points forward to the time when his brothers have to go to Egypt to obtain food because there are no longer any harvests. On that occasion they do indeed bow down to Joseph, the overseer of all the grain in Egypt (Gen 42:6; 43:26). The dream encompasses the entire history of Joseph in Egypt. In what is a standard procedure for a biblical lawgiver, he turned to this particular story because it provided the first example in the nation's history when a policy was put in place to supply those desperately in need of grain.

The key to comprehending the law of the forgotten sheaf is the role of forgetfulness in the Joseph story.[7] The law takes up the drama of how Joseph's dream about himself as the superior sheaf of grain is delayed in its fulfillment. The dream only begins to show promise of fulfillment when in prison Joseph, under God's direction, interprets aright the dreams of the butler and the baker (Gen 40:8). Joseph appeals to the butler to remember him when he becomes the pharaoh's butler again (Gen 40:14). However, the butler "did not remember Joseph, but forgot him" (Gen 40:23). Only when the pharaoh has his troubling dreams (one of which contains imagery involving grain) does the butler remember Joseph and commend him as an interpreter of dreams (Gen 41:9–13). That development triggers Joseph's rise to preeminence, to a position from which he administers food stores on behalf of those who would otherwise go hungry.

The standing sheaf of the dream, representing Joseph, like the sheaf in the rule, is first forgotten, then remembered, and, again like the sheaf in the law, is able to provide the needy with grain. The odd element in the law—a sheaf is forgotten and then remembered—is designed to arouse curiosity and stir historical memory. It functions like a proverb in that the oddity depicted is the key to its meaning, and like an adage the law is "a miniature of major content," "infinite riches in a little room."[8] The lawgiver has exploited a legendary story about the first time people were aided in obtaining food in times of hardship. The view is that such a rescue comes at the hand of God and the example from the past should be remembered and imitated at harvesttime—imitated in the sense that a harvester should indeed leave for the poor some of the fruits of the harvest. One would misunderstand the rule by taking it literally; reckoning that obedience to it was only possible should forgetfulness prevail. Critics whose automatic assumption is that the laws serve practical, institutional ends overlook their aesthetic makeup, that they might sometimes exhibit indirect, allu-

sive ways of communicating.[9] Law in the biblical era lacked formal institutions, and those ancient scribes intent on the formulation of laws were probably also those involved with the transmission and shaping of narrative traditions.[10]

The storylike character of the rule about the forgotten sheaf explains (in part) why there is no effort to make the legendary episode at its core explicit. The quality that Walter Benjamin saw in storytelling applies also to the biblical rule: "It is half the art of storytelling to keep a story free from explanation as one reproduces it."[11] The intent is to have the recipients of the rule reflect on their history—it is assumed that they will know it intimately—and realize, from knowing their past, who they are and how they should conduct themselves in the present. The story of Joseph is itself, after all, intent on conveying certain counsel. In any event, my argument is that the lawgiver's own wrestling with problems in his people's traditions affected the way in which he formulated rules to address comparable problems that arose in his own time—or that might occur any time, for that matter. The exercise presents a remarkable example of how laws tied to stories about national origins can contribute to a group's identity.

The recorders of the biblical legal material engaged in a process, the invention of their own legal traditions, which has the effect of building a culture and an identity. Such a process occurs in the life of most nations. I have come upon examples in Chinese, Greek, Roman, Scottish, and, most recently, Roma (Gypsy) law.[12] A negative consequence is that it is exceedingly difficult, if not impossible, to work out the laws that actually applied in the lawgiver's own time. To be sure, the laws that we find recorded will, in most instances, have been based on laws existing at the time the lawgiver(s) lived.[13] It is impossible to detect, however, from the contents of the invented laws attributed to Moses what form the existing laws might have taken. Just as Islamic standards were imposed on laws current in Arabia in the seventh century C.E., so the Israelite lawgiver imposed ideal standards on law and custom current in his time.[14]

A few observations might be made about the rules available to the biblical lawgiver before he embarked on his grand scheme of bringing them into connection with the formative myths about the history and prehistory of his nation. Taking biblical law as a whole, most interpreters nowadays view it as part of the broader legal culture of the ancient Near East. Economic, social, and religious needs determine, they assume, the distinctive aspect of Israelite legal culture. I have no doubt that there is truth in this view for those laws available to the lawgiver in his time—that is, those laws he reformulated in light of the contents of the biblical narratives. But even for the laws assumed to exist in the time of the lawgiver, I am not sure what it actually means to claim that they are part of ancient Near Eastern legal culture. Are we to assume that the Israelites borrowed rules from their Babylonian neighbors de-

spite the difference in geographical location and general culture? Or are we to assume a less direct connection, the existence of similarities in general thought and methods such as we find characteristic of later Greek, Roman, Talmudic, and Islamic jurisprudence? In regard to the latter four bodies of law, there is on the whole no dependence of one on the other. Rather, over a long period of time the craft of rhetoric, in the sense of forensic science (which was originally Greek in origin), influenced schools of jurists in each culture.[15]

The theoretical character of the Near Eastern codes has been increasingly stressed, much being made of what is termed "the schools tradition" and its possible influence throughout the entire Near East, including, it is conjectured, ancient Israel. The rules are not primarily geared to their use in court but are hypothetical in character. So far as I can make out, however, it is not clear whether the influence of the Babylonian schools on Israelite scribal schools is solely general in character, along the lines of the Greek, Roman, Talmudic, and Islamic examples. Or do similar rules show up in each legal culture and the formulations specific to each come, as Westbrook has argued, from similar hypothetical questions put to similar legal cases in each society?[16] The cases in question are, alas, but known to Westbrook only because he infers them from the rules in the codes. Despite this obvious problem, I am nonetheless attracted to the possibility that the Near Eastern scribal tradition inspired Israelite scribes to put hypothetical questions to their own particular cases. Only these cases came not from the functioning courts in ancient Israel but from the issues that turned up in the traditions we find recorded in Genesis–2 Kings.

IDIOSYNCRATIC CHARACTER OF STORYTELLING

Why, it might be asked, has the fundamental link between law and narrative largely escaped notice?[17] Aside from the major problem of not reading Genesis–2 Kings as a coherent narrative, another problem is the difficulty of seeing how the idiosyncratic features of the narratives inspire the rules. That storytelling is about the idiosyncratic goes without saying. However, because this notion is so essential to comprehending the nature of biblical legal material, it very much needs to be said. Consider the following link between the story in Genesis 29 of how Jacob on his wedding night unwittingly acquired Laban's older daughter Leah as a bride and the rule in Deut 22:13–21 about the man who rejects a bride because she is not a virgin on her wedding night. Both story and law deal with unwanted brides. But in what way might they be related such that the law is a response to the story?

In the story, Jacob wishes to marry Laban's younger daughter, Rachel, and he agrees to work seven years for her to become his wife. After the seven years are up,

Laban, taking advantage of Jacob's inebriated state at the wedding festivities, slips Leah into the bridal tent in place of Rachel. When Jacob comes to his senses after the substitution and discovers his unwanted new wife, he confronts Laban. The latter responds by offering Rachel to Jacob for a further seven years of service, if he remains married to Leah. Jacob has no alternative but to accept the offer, and Rachel becomes his second wife.

In the rule, a man refuses to accept his new bride because he alleges that she is not a virgin. The dispute hinges on the wedding night sheet. If bloodstained, the man must pay the bride's father double the bride price for the slander he brought on her and her father's house, and he has to remain married to her. (Jacob, we might note, paid a double bride price, fourteen years of service, for Rachel and had to remain married to Leah.) In the rule, if there is no blood on the sheet, the woman is put to death because she is judged to have committed harlotry.

The climactic part of the rule, the bride's lack of virginity, provides the reason, I submit, why it is set down at all. In both texts, a man rejects his bride because of a misconception about her that, in each instance, results from what happens on the wedding night. Jacob is mistaken about his bride's identity, and the man in the rule is mistaken about his bride's virginity. But the story and the rule then diverge. On account of the circumstances he finds himself in, Jacob cannot reject Leah. In the rule, however, the man can reject his bride if no blood has been found on the sheet. Can we, despite the different outcomes, claim a link between the law and the narrative? I think that we can. The rule furnishes a valid basis for rejecting a bride—lack of virginity—that was not available to Jacob. I believe that the lawgiver crafted the rule as a reaction to Jacob's inability to reject Leah. The intent of the law is that if, sometime in the future, an Israelite seeks to dismiss his newly acquired bride, the one ground entitling him to do so is the production of proof that she was not a virgin.

Links of this kind, not being immediately obvious, account for the difficulty in picking up how the laws relate to the narratives. My claim is that these links nonetheless exist, and for every rule we have to position ourselves correctly to see the connection. In the preceding example, we can assume that later Israelites were familiar with the story about the founding father's marital problem. Jacob's predicament raised the question about what a man might do if he somehow acquired a wife whom he did not wish. The rule, in turn, comes up with a comparable problem that might plausibly occur in ordinary, not legendary, times and examines the legal issues that might arise.[18]

Later noncanonical authors did, in fact, formulate judgments in response to biblical events. Coming at the incident from a certain angle, Sirach, for instance, reacted critically to Jeremiah's daring preaching in the Temple court in the hearing

of the governor. The authorities ill-treated him for doing so, and Jeremiah, driven to despair, curses the day he was born and condemns his father and mother for giving him birth (Jeremiah 20). Responding to the incident, Sirach counseled about the imprudence of speaking provocatively in high places: "Remember your father and your mother when you sit in the council in the midst of grandees, lest perchance you stumble before them and show yourself to be a fool in your manner of speech, and do wish you had not been born and curse the day of your birth" (Sir 23:14).[19]

METHODS OF ANALYZING BIBLICAL LEGAL MATERIAL

My view of how biblical laws came to be set down in writing differs radically from the long-standing view of other scholars who assume that the laws are responses to issues and problems that arose in the lives of lawgivers. For these scholars, the laws reflect live history, whereas for me they reflect a long lost past. On my reading, the laws have been formulated because someone (or some school of scribes) has surveyed an account of Israel's past up until the Exile and made judgments on matters arising in it. Given the nature of these two different assumptions about a living present as against a lost past, a markedly different result about the meaning of any one law usually emerges.

The attempt to relate biblical laws to social, political, and religious history cannot but be speculative, I submit.[20] Much effort goes into suggesting various historical settings that are inferred from the biblical sources and into which the laws supposedly fit. But consider, by examining an example of two mutually exclusive attributions, how serendipitous is the linking of the laws to different periods of history in ancient Israel. J. E. Hartley relates the rule in Lev 25:39, 40 (an Israelite's having to sell himself to a fellow Israelite) to the time of the Judges. He states (perhaps accurately), "Beset by poor harvests, plagues, personal illness, marauding bands . . . a brother may become so poor . . . that he has to sell himself. . . . This would have been especially true during the days of the judges, for the Israelites began their occupation of Canaan with limited capital and limited experience in farming. Losses inflicted by marauding bands were a recurring problem that caused these peasants great economic hardship and threatened many with the loss of their patrimony, as the book of Judges attests."[21] Baruch Levine, in turn, relates the rule in Lev 25:47–55 (an Israelite's having to sell himself to a prosperous resident alien) to the postexilic Persian period of history, some five hundred years at least later than the period of the Judges. He reckons (and he may be correct) that it must have been a period when problems associated with a mixed population surfaced in Jerusalem and Judea.[22]

In each of the two examples, we can find other critics who choose quite different

periods of time to which each of the two rules might be related. My point is that often their observations may well be correct—in the periods of time in question, the concerns in the rules could have coincided with those in society—but it does not necessarily mean that we can pinpoint the laws as coming from one or another of these historical periods. We simply have no way of confirming that a particular law comes from the conjectured history in question.

My criticism of the regnant theory is, then, that it lacks the provable documentary sources to support claims about the possible links between laws and actual historical events. Those who adhere to the thesis assume that the issues in the laws are about the problems in the society of the lawgiver's time, because to these inquirers it is self-evident that laws are always responses to what goes on in society. But even in regard to the contemporary United States, where law is so much more institutionalized than in ancient society, that assumption is far from true, as I shall later point out. My own thesis at least has the merit that it invites an examination of evidence directly accessible to us: both rules and narratives are available for our direct scrutiny.

CHAPTER ONE

Looking at Leviticus

Leviticus 10–14

In all matters, beginnings and ends are the vital features.

A reader of Leviticus comes away with the overwhelming impression that Moses gives the laws therein to his contemporaries and their future descendants. The laws he produces inaugurate the cult and ordain how it is to function and how both priests and laity are to relate to it. The text clearly communicates that the events of Moses's life that occur in Egypt and that happen on his and his people's trek from Egypt to their present location in the desert constitute the beginnings of the nation.

Adopting a critical approach to this body of ancient material, the laws as well as the narratives, scholars have long concluded that it is a fictional composition. I share their view. Some lawgiver, writing at a much later time than the purported life of Moses, has attributed to the legendary figure of Moses his own idealistic sense of what constituted Israel's religious and cultic life. I also share the generally held view that the lawgiver committed to writing matters that belonged to a lost past because the nation was, by his time, exiled (or about to be exiled) in Babylonia. To take stock of how the nation came into being was to affirm that, despite its loss of a land, the people could still have an identity. The nation's end, its imminent or actual dispersal to Babylonia, inspired a focus on its beginnings.

The author of Leviticus gave his composition a rather complicated framework. He set it in the time of Moses, but a good number of Moses's utterances assume knowledge of later history. I shall highlight this peculiar knowing of future events on the part of Moses. By doing so, I am able to introduce a new dimension to the study

of the laws and institutions of Leviticus. I part company with other scholars in that I assess differently how the rules came to be incorporated in the book of Leviticus. The general scholarly view understands the Levitical rules as having served, with some updating, practical needs in times past. In contrast, I posit that the rules were newly fashioned at the time of the composition of Leviticus. It is not that these newly minted rules lacked precursors. I hold that, whatever shape those precursors had, the biblical lawgiver transformed them by bringing them to bear on the narrative lore in Genesis–2 Kings. In my view, it was not just annals of law, written or, more likely, unwritten, that lay before the anonymous lawgiver, who updated them one more time, but also annals of stories, including stories of lawgiving. These narrative traditions, as literary as they are historical, inspired him to reformulate the laws known to him. He was not a recorder of historical information but a mythmaker who made judgments in the name of Moses on matters that occurred before, during, and after Moses's lifetime—as these are recounted in Genesis–2 Kings.

A concentration on beginnings by the author of Leviticus is one major key to understanding his composition. The interest is an explicit one. Moses, for instance, inaugurates a system of sacrifices and inducts priests, Aaron and his sons being the first (Leviticus 1–9). But, as we shall see, the Leviticus author's focus was also on matters that arise for the first time both before and after the time of Moses. There can be no doubt that the author of Leviticus had knowledge of the post-Mosaic period, but the remarkable extent of its range has not been realized.[1] Equally important in appreciating how Leviticus came into existence is to note that the author scanned the generations to see if some troubling matter repeats itself. He proceeded as if Moses knew that a problem first turning up in one generation was bound to repeat itself in a following one. There is a double focus: on initial occurrences and later iterations down the generations. My aim is to identify the narrative histories underlying the laws and institutions of Leviticus, to pinpoint how the author produced rules in response to specific problems that arose in Genesis–2 Kings.

In this volume, my analysis begins after the account in Leviticus 1–7 of the rules concerning various types of offerings.[2] In Leviticus 8, Aaron and his sons are set up at the newly constructed sanctuary as the first priests. Their descendants, some of whom we will come upon when discussing subsequent laws, are to inherit the priestly office. In Leviticus 9, the priests and the people congregate for the first time in the desert sanctuary to experience the supernatural manifestation of the Divine Presence (in the form of fire that emanates from the sanctuary). So far, all is positive. But in Leviticus 10 there occurs the first infraction within the newly established sanctuary. Two of Aaron's sons, Nadab and Abihu, offend by offering "unauthorized fire" upon the altar. Condign punishment befalls them. Fire emanates from God

and consumes them. There follows an instruction to Aaron and his two other sons not to mourn these family members in any formal, ritualized manner.

We might note immediately that in Leviticus 8 (as elsewhere in the Pentateuch) narrative and rule are combined. The combination only occurs when Moses is concerned with his own time and place. When giving laws that are inspired by incidents occurring long before or long after his time, Moses does not allude to the stories about them. The text does not read, "Recall what happened in the time of Abraham when he passed his wife off as his sister" (resulting in a rule against the renovation of a marriage: Deut 24:1–4). Nor does the text say, "There will arise a king who will multiply horses, silver, gold, and wives" (resulting in a rule about the institution of the monarchy and prohibiting the multiplication of the very possessions that Solomon accrued during his reign: Deut 17:14–20; 1 Kings 10). The author's practice of only citing events in Moses's own time seems to be a device that lends weight to the fiction that Moses really existed.

The integral linking of law to legend in Leviticus 8 is almost certainly the doing of the same writer and raises the question how much, if at all, he might have been involved in narratives other than those in Leviticus. Might he have had them before him as if he were reading or telling himself an existing story? I think he did. As well as extracting rules from narratives, did he also sometimes alter the latter? I think he may have done so. In that scholars speak of a major P redaction of the Pentateuch and also note a Priestly hand sometimes showing up in the body of the historical literature from Joshua to 2 Kings, they obviously see interference with the narratives outside of Leviticus.[3] It is, however, beyond the scope of this book to pursue the topic thoroughly, although, as other scholars have done, I shall note examples of probable interference.

To return to the analysis of Leviticus 8: having depicted Nadab and Abihu's offense and punishment, the author of Leviticus proceeded to formulate rules in response to offenses, priestly and lay, that occur in subsequent generations and at other sanctuaries. He imagined Moses as a prophet and a seer (cf. 1 Sam 9:9: "He now called a prophet was beforetime called a seer"), who, having rare powers at his command, anticipated the future. In his rules we should think of Moses addressing issues, many of which he "knew" would arise after his lifetime at two sanctuaries, Shiloh and later again at Nob.[4] Just as rules tied to events from the time of Moses are characteristic of the material in Leviticus 8–10, so rules tied to later events (but certainly not excluding earlier ones because of the practice of returning to first-time occurrences) will be the norm for the remainder of Leviticus. Specific occasions always trigger the rules.

Dominating the lawgiver's attention in laying out the rules in Leviticus 10–14 is,

I will argue, wrongdoing at or associated with the Shiloh sanctuary. The offenses in question elicit the following rules: prohibition of alcohol consumption by the priests within the sanctuary; permission for all Israelites to eat animals, but with restrictions; purification of women after childbirth; and skin ailments. The history relevant to these topics is found in 1 Samuel 1–6. In the biblical scheme of events, this is the first account of problems at a sanctuary we hear about following Moses's trouble with Aaron and his immediate family at the wilderness sanctuary.[5] Moses, we are to imagine, took up these later problems as well.

Rules	*Narratives*
Lev 10:9. No priest is to consume alcohol within the sanctuary.	1 Samuel 1. The priest Eli mistakes for drunken conduct Hannah's unarticulated vow to give her son to the service of the Shiloh sanctuary.
Lev 10:10–11:47. An instruction to Aaron, his sons and descendants to teach the people to distinguish between the sacred and the profane, the clean and the unclean is followed by a narrative about the failure of Aaron's two sons to consume a meat offering and a list of rules about clean and unclean food.	1 Samuel 2. Eli's priestly sons at the Shiloh sanctuary greedily consume both their own meat portions and those not meant for them. Genesis 9. The fundamental issue of appetite for meat goes back to the situation immediately after the Flood.
Leviticus 12. Rules are provided about holiness and childbirth.	1 Samuel 3, 4. Eli's sons' offense leads to the Philistine capture of Israel's holiest of objects, the Ark of the Covenant, and the wife of one of them, traumatized on hearing of its removal, dies giving birth.
Leviticus 13, 14. The priests are to supervise the treatment of skin diseases.	1 Samuel 5, 6. The Ark causes tumors to break out among the Philistine population, and appeal is made to the Philistine priests to do something about the outbreak.

Drunkenness is charged at the Shiloh sanctuary (1 Samuel 1). *A rule prohibits priests from drinking in the sanctuary* (Lev 10:9).

In 1 Samuel 1, in the time of the priesthood of Aaron's descendant Eli,[6] the first issue arising that concerns the violation of the sanctuary is a woman's apparent abuse of alcohol at the Shiloh sanctuary. To be sure, it turns out in the end, despite

appearances, not to be an infraction at all. Nonetheless, for reasons that will become clear, the concern with drunkenness engages the lawgiver's attention.

In Leviticus 10, after the deaths of Nadab and Abihu, Moses instructs Aaron and his two surviving priestly sons, Eleazar and Ithamar, not to drink wine or strong drink when they enter the first Israelite sanctuary, the Tent of Meeting. The rule is to apply to all their descendants. The prohibition reads, "Do not drink wine or strong drink, thou, nor thy sons with thee, when ye go into the Tent of Meeting, lest ye die: it shall be a statute for ever throughout your generations" (Lev 10:9). Critics invariably speak of the prohibition as an addition or insertion that does not fit its context.[7] They think that it interrupts the account of the incident concerning the capital offense of Nadab and Abihu (Lev 10:1–7) and the following incident when Moses is upset about the unwillingness of Aaron's two remaining sons, Eleazar and Ithamar, to consume sacred food that had been apportioned to them (Lev 10:12–20).

The rule does, in fact, fit its context. It comes at this point in Leviticus 10 because the lawgiver turned his attention to the next offense (or appearance of one) at a sanctuary in the history of the nation, the one after Nadab and Abihu's. We can link the prohibition against drinking with an incident at the Shiloh sanctuary in the following way. The priest Eli thinks that Hannah, the future mother of Samuel, who has come to the sanctuary with her husband on an annual pilgrimage, is drunk (1 Sam 1:16).[8] She is not, but her appearance, as she wordlessly articulates a vow to God, gives the impression that she is inebriated. Eli refers to her as "a daughter of Belial," someone who is quite disreputable. She justifiably protests that she is not such a woman, presumably of the kind that congregate around the sanctuary and give of their sexual favors. Indeed, Eli has two sons coincidently serving as priests who are described as "sons of Belial," one of their offenses being that they lie with the women who also serve at the sanctuary (1 Sam 2:12, 22). In protesting that she is not drunk, Hannah mentions both wine and liquor, the two intoxicants referred to in the rule in Lev 10:9. The narrative about her at the Shiloh sanctuary reports the consumption of wine as normal on festive occasions (1 Sam 1:9, 14, 24). Indeed, we learn how she brings some to the sanctuary (1 Sam 1:24).

I suggest that the lawgiver set down in Lev 10:9 the issue of priests' drinking wine and liquor within the sanctuary because of Eli's expressed concern. Eli is the high priest at the sanctuary at Shiloh, and the lawgiver transformed Eli's rebuke of Hannah into the rule in Lev 10:9. He did so because priests, being the primary object of his concern in the rules that he has given out so far in Leviticus 8–10, should certainly not drink wine or strong liquor when they enter the sanctuary. The lawgiver had in mind both the false accusation against Hannah and the disreputable charac-

ter of Eli's sons who are priests. Moreover, as the Septuagint makes particularly clear (1 Sam 1:11), Hannah in her vow to God promises that any son she has will become a Nazirite, that is, someone who refrains from wine and other intoxicants (Num 6:1–8). Coming upon the event in his traditions, the Leviticus author reckoned, so we might speculate, that the legendary lawgiver Moses must have laid down such a rule. After all, it is when Hannah makes her vow to dedicate any son she may have to the service of the sanctuary that Eli forms the mistaken impression that she is drunk. The unexpected link in the story between alcohol and serving at a sanctuary is thus, as in the law, a very clear one.[9]

On account of their lust for meat, the priests abuse the people's sacrificial offerings at the Shiloh sanctuary (1 Samuel 2). *The first time the issue of appetite for meat arises is at the end of the Flood. While permission is granted to eat meat, no distinction is made between which creatures could be eaten and which could not* (Genesis 9). *The lawgiver in Leviticus specifies which animals can be eaten and which cannot* (Lev 10:10–11:47).

To understand what motivated the lawgiver to set down food rules in Leviticus 11, we have to consider three different contexts: the one in Leviticus 10 about the duty of priests to instruct the people about the distinction between clean and unclean (Lev 10:10, 11), and also about Aaron's sons' failure to consume what they were supposed to consume from the people's offerings (Lev 10:12–20); the one in 1 Samuel 2 about the abuse by priests of the people's offerings; and the one in Genesis 9 about the permission to eat meat that is granted by God after the Flood. By noting the issue that arises when the restraint of Aaron's sons in not eating is contrasted with the indulgence of Eli's sons, we can see why the lawgiver turned to the Flood narrative too.

AARON'S SONS AND THEIR DESCENDANTS

After they are instructed not to drink alcohol within the sanctuary, the priests in Leviticus 10 are forthwith instructed to distinguish "between holy and unholy, and between unclean and clean" and to teach the people such statutes as are about to be cited (Lev 10:10, 11).[10] But before the enumeration of these statutes (beginning with the eating of animals in Leviticus 11:1), there is an account of how Aaron and his two sons, Eleazar and Ithamar, upset Moses by declining to eat their priestly dues from an animal offering. Like Eli in relation to Hannah's conduct, Moses ends up accepting that they commit no wrong on the occasion (at the first sacrificial service at the first sanctuary when their brothers commit their fatal, sacrilegious offense).[11]

The transition from the concern in Leviticus 10, with what the two priests are obliged to eat of the people's offerings, to a concern in Leviticus 11, with what the people themselves can or cannot eat, occurs in the context of the duty of priests to instruct the people. It is no surprise, then, that in Leviticus 11 we have lists of those clean creatures that all Israelites, priests and nonpriests alike, can eat and those unclean ones they must not eat.

The food rules in Leviticus 11 read (in part):

> And Yahweh spake unto Moses and to Aaron, saying unto them. Speak unto the children of Israel, saying, These are the beasts which ye shall eat among all the beasts that are on the earth. Whatsoever parteth the hoof, and is clovenfooted, and cheweth the cud, among the beasts, that shall ye eat. . . . Nevertheless these shall ye not eat of them that chew the cud. . . . These shall ye eat of all that are in the waters. . . . And all that have not fins and scales in the seas . . . shall be an abomination unto you. . . . And these are they which ye shall have in abomination among the fowls. . . . This is the law of the beasts, and of the fowl, and of every living creature that moveth in the waters, and of every creature that creepeth upon the earth: To make a difference between the unclean and the clean, and between the beast that may be eaten and the beast that may not be eaten.

ELI'S SONS

In explaining the rules about food in Leviticus 11 a good deal more has to be said. In 1 Sam 2:27, 28, after the episode about Hannah's alleged drunkenness, the sons of Eli actually do commit an offense against the sanctuary that concerns the eating of meat. They blatantly and forcibly steal and eat parts of the sacrifices that do not belong to priests. Although the text does not go into details, one major consequence is that, as priests, they "make Yahweh's people to transgress" (1 Sam 2:24), the very people they are supposed to instruct properly in such matters.[12] The two priests in question, Hophni and Phinehas, blur distinctions among three categories: food for the priests, food for the people, and food for the deity. We have an interesting contrast between the stories in Leviticus 10 and 1 Samuel 2. In Leviticus 10, Aaron's two sons do not eat a sacrificial animal that Moses claims they, as priests, should have eaten. In 1 Samuel 2, on the other hand, their descendants eat those parts of sacrificial animals which, as food for the people and for the deity, they as priests should certainly not be eating. Lust for meat motivates Eli's sons to ignore the distinctions.[13]

I suggest that the joint focus in Leviticus 10 and 1 Samuel 2 on Aaron's sons' abstention from eating meat and Eli's sons' shameful appetite for it in the presence

of the people led the lawgiver to a consideration of the fundamental issue that underlies all rules about the consumption of meat, in a sanctuary or anywhere else: the permission to eat animals in the first place and which ones can be eaten. The raising of this issue accounts for the switch in Leviticus 10 from a focus on priests' refusing meat that Moses expected them to eat to a focus in Leviticus 11 on universal appetite for meat. It is a concern that is reinforced by the following consideration.

THE FLOOD STORY

The scribes who present the continuous narrative history of Genesis–2 Kings recount the history of the generations from prepatriarchal times to the exile. The lawgiver, I am claiming, was equally aware of this history and prehistory. The story of the Flood provides the earliest instance when the issue of human appetite for meat arises. Accordingly, in line with his overall method of inquiry, the lawgiver turned from the incidents at the places of worship in the wilderness and Shiloh to the primeval event of the Flood, when the matter of consuming meat first presents itself at, as it happens, humankind's first place of worship (Gen 8:20). The climax to the Flood story concerns the first time ever that the deity gives permission to humans to eat animals. Yahweh does so after he accepts Noah's offering of clean animals and clean birds at an altar he built (Gen 8:20–9:3).[14]

The lawgiver had another good reason to take up the Flood narrative (to which in subsequent laws in Lev 17:2–16, wrongful animal slaughter and the blood taboo, he will again have occasion to turn). When the priests at the Shiloh sanctuary steal from the meat offerings belonging to the people and the deity (1 Samuel 2), they make a mockery of the distinction between the sacred and the profane.[15] They commit *ḥamas* (violence, wrong), the very sin for which, as Milgrom points out, God brought a flood upon mankind (Gen 6:11, 13). As Milgrom further points out, the making of distinctions is "the essence of the priestly function." He cites Ezek 22:26 where the prophet indicts the priests for violating (*ḥamas*) divine law by failing to distinguish between the sacred and the profane, the clean and the unclean.[16] Ezekiel is almost certainly referring to (among other matters) failure to observe the food rules.

In Genesis 6–9, divine destruction befalls the world because of its violence (*ḥamas*). The violence specifically involves, as the sequel to the story brings out, animals killing humans and humans killing animals, especially for purposes of appetite. On account of this indiscriminate killing on the earth, the subsequent destruction by flood mirrors the offense, because its effects, too, are indiscriminate: all life (except that which is on board the ark) perishes without distinction. In choosing to save

Noah, God has him take on board pairs of clean and unclean creatures (Gen 7:2).[17] After the Flood is over, the deity lays down rules—we have the combination of law and narrative—about the killing of animals and humans (Gen 9:3–6). He grants permission to humans to kill and eat beasts so long as they do not consume their blood also. The permission is by way of a concession. Initially the intended created order, according to Gen 1:29, 30, excluded killing of any kind for appetite.

Notably not spelled out in Genesis 9 is the issue whether both clean and unclean creatures can be killed and eaten. Indeed, the statement in Gen 9:3, "Every moving thing that liveth shall be meat for you," suggests that both can. In response to the position in Genesis 9, which applied to all of humankind, the Leviticus lawgiver took up the topic and, doubtless leaning on customary practice among his own people, spelled out the contrasting requirement for the Israelites. Only those animals he knew to be classified as clean might they eat. He would have been further prompted to this judgment by noting that just before the deity granted permission to eat meat, Noah offered only clean creatures in sacrifice to him (Gen 8:20). It was, then, the lawgiver's reading of the narrative about the new beginning of the world after the Flood that contributed greatly to his setting down and distinguishing between clean and unclean creatures. When Lev 11:2 refers to all the clean beasts for eating that are "on the earth," it reveals the same global reach as the Flood narrative. So too does the division in Leviticus 11 of the animal world into the three spheres: earth, water, and air.[18]

The rules for all Israelites in Lev 11:24–40—for example, the one in Lev 11:24, "Whosoever toucheth the carcase of them [unclean animals] shall be unclean until the even"—fill out the details of the larger concern with permitted and forbidden foods. The focus is on offenses in regard to food less heinous than the sacrilegious offense of Hophni and Phinehas at the Shiloh sanctuary, whose priestly duty it was to instruct lay persons to avoid uncleanness of the kind spelled out in the rules.

A mother dies at childbirth on hearing of the sacred Ark's removal from the Shiloh sanctuary (1 Samuel 3, 4). *The rules, in turn, are about women after childbirth being permitted to enter the sanctuary again* (Leviticus 12).

The lawgiver's focus continued to be primarily on the history of Eli's sons because it is the first recorded history of the official priesthood after the time of Moses. The fate of these offending sons, Hophni and Phinehas, explains why the lawgiver turned to each of the various subjects covered in Leviticus 11–14.

In the following analysis I will address the question not only of what prompted the topics in Leviticus 11–14, but also why they appear in the particular order we find them. How do we explain why matters pertaining to women in childbirth (Leviticus

12) follow after matters pertaining to food (Leviticus 11)? The move is far from clear. Neither is the next move from childbirth to skin diseases (Leviticus 13, 14).

A crucial observation for the analysis of the laws in Leviticus 11–14 is that the sacred object ordinarily housed in the sanctuary, the Ark of the Covenant, dominates the continuing narrative about the offenses of Hophni and Phinehas in 1 Samuel 2. When the two priests die in a battle against the Philistines, the latter capture this "powerful and dangerous sacred object"[19] and transport it back to Philistine territory. The removal of the Ark from Shiloh and the priests' deaths are inextricably linked. By abusing the sanctuary offerings, by offending in matters of food, they upset the holy order and set in motion a disturbance that emanates from the Ark itself.

The impact of the removal of Israel's source of holiness is so great—greater, in fact, than the death at the same time of her husband—that when the wife of Phinehas hears about it she dies. She expires, moreover, at the point in time when she is giving birth to a son. As she dies, she names the child Ichabod (Alas, the glory), a name that signifies the capture of the Ark. "And she said, 'The glory has departed from Israel, for the ark of God has been captured'" (1 Sam 4:22). In Lev 9:23, 24, the "glory of Yahweh" refers to Yahweh's manifest presence among the people of Israel (when fire comes forth and consumes a burnt offering and the fat upon the altar). Her death in childbirth is thus an expression of Yahweh's judgment on her husband's offense and his future line. The fate of Phinehas's descendants is a major concern of the narrator of Samuel (1 Samuel 2–4, 22; cf. 1 Kgs 2:26, 27). It is no surprise that the lawgiver similarly focused on it because his interest coincided with the narrator's.

The dramatic concurrent events of the loss of Israel's institutionalized emblem of holiness and the loss of an Israelite's mother's life at childbirth explain, I suggest, one of the lawgiver's seemingly incongruous moves. Thus he switched from the subject of food—which arose on account of priestly abuse of the sanctuary at Shiloh—to the subject of childbirth, which arose on account of the Philistines' violent capture of the Ark, which had resided at that same sanctuary. The violence that the priests Phinehas and his brother do to the people's sacrifices has a dire consequence: the capture of the Ark. The name of Phinehas's offspring, Ichabod, whose mother dies at his delivery, records its capture. His name thus expresses a profound link between childbirth and the sacred order.

The lawgiver, having in mind this instance of death in childbirth, which was bound up with Israel's sacred symbol, proceeded to lay out rules about the *usual* situation at childbirth: the survival of mother (and son), and how such an event ordinarily relates to religious life at the sanctuary. The opening statement of the law is, "If a woman conceives, and bears a male child, then she shall be unclean seven days" (Lev 12:2). A consequence of her uncleanness is that she cannot come into the

sanctuary where the Ark resides (Lev 12:4). Should she do so, the holiness that emanates from it may prove fatal. In any event, the narrative has posed the question: what is the relationship between childbirth and Israel's commitment to holiness?

The rule includes a requirement to circumcise a son on the eighth day after his birth. The inclusion of the injunction may not be an interpolation as critics claim[20] but be in focus because of the story. The Philistines who acquire the Ark are described as not being circumcised (1 Sam 14:6, 17:26, 36; 2 Sam 1:20), whereas circumcision for the Israelites is essential to their identity. The child Ichabod born to the wife of Phinehas may or may not have been circumcised because of the loss of Israel's unique object, the Ark of the Covenant. Whether that is so or not, the loss of one expression of identity, the Ark, is a reminder of the necessity of the other, circumcision (Gen 17:10). In other words, it is precisely against the backdrop of Israel's loss of public identity, the Ark, that the lawgiver is prompted to highlight the requirement of the private mark of identity, circumcision. That mark can be imprinted even in the absence of the Ark. If the rules are geared to the nation in exile, when the cult no longer functioned, the issue is clearly an important one.[21]

Another link between the history of the Shiloh sanctuary and the rules in Leviticus 12 may be detectable. In 1 Sam 1:22, Hannah, the mother of Samuel, does not appear to have fulfilled the requirement of Lev 12:4, 6 according to which she should have brought a purification offering to the sanctuary some forty days after the birth of her son. All we learn is that when it is time for her to hand Samuel over to the sanctuary to serve there, she turns up with an offering only after Samuel is weaned, probably some two to three years later (1 Sam 1:24; cf. 2 Macc 7:27). We may be dealing with a discrepancy between story and rule in the sense that what the story relays is what prompted the lawgiver to articulate the proper rule. Or, alternatively and more likely, he set down the rule for the usual situation in which a child is not to be given over, as Samuel was, to the sanctuary. After a woman gives birth, there was to be a shorter lapse of time than in the story for her offering to be presented at the sanctuary.

A plague of tumors affects the Philistines because of the Ark's presence among them (1 Samuel 5, 6). *The rules concern growths on skin, clothing, and houses* (Leviticus 13, 14).

As the child's name Ichabod well brings out, the death of Phinehas's wife at childbirth is linked to the Philistines' capture of the Ark. Coincidentally, the Ark's presence among the Philistines causes an outbreak of skin disease among them in the form of tumors. To deal with the outbreak, the Philistines turn to their priests for directions (1 Sam 6:2). These experts predict that if the proper thing is done, namely

returning the Ark, "Ye shall be healed and it shall be known to you why his [the Israelite god's] hand does not turn from you" (1 Sam 6:3). The Philistines, it is further stressed, must give honor to the God of Israel (1 Sam 6:5). An implication is that the relieving power of the Israelite god in regard to such diseases must be acknowledged. In returning the Ark, the Philistines must also give an *'asham*, "reparation" or "guilt offering."

I suggest that the story of the affliction visited upon the Philistines raised for the lawgiver the issue of how, in the circumstances of daily life in the future, Israelites must consult their priests about skin diseases. By turning to their priests, the people of Israel will receive directions so that they can resume contact with the site of holiness, in the midst of which is the Ark. There follow the rules in Leviticus 13 and 14, the opening one of which states: "When a man has on the skin of his body a swelling or an eruption or a spot . . ." (Lev 13:2).[22] The strange juxtaposition of the topics of uncleanness at childbirth (Leviticus 12) and skin diseases (Leviticus 13, 14) becomes intelligible in light of the role of the Ark in the narrative.

At the risk of overstating the links between story and law, the following ones might be considered.[23] In Lev 13:45, a diseased Israelite has to adopt the manner of a mourner to express the fear of death and at the same time to cry out, "unclean, unclean." In 1 Sam 5:11, 12, we hear of "a deathly panic" among the Philistines and how they cry out to heaven. Wherever the Ark goes among the Philistines, from one city to the next, it causes an outbreak of disease. The response from the various cities is to remove the Ark so as to displace the disease-causing source. The rules in Leviticus 13 and 14, in turn, insist on the removal of diseased persons from populated areas. Isolation of the contagion is common to both law and narrative.

THE REPARATION OFFERING

By linking law and narrative we might be able to understand better why a diseased Israelite has to pay a reparation (trespass, guilt) offering (*'asham*), a matter puzzling to commentators. The guilt offering (*'asham*) undoes an offense against the sacred sphere. Critics rightly wonder what loss an afflicted Israelite has to compensate for or, more to the point, what transgression against the sacred sphere the person has to make good.[24] What might account for the awkwardness is, simply, that the reparation offering in the law replicates the one in the story, which describes how the afflicted Philistines have to give such an offering (1 Samuel 6). Their offense is the complicated one of appropriating a sacred object, the Ark, belonging to the Israelites.

It may also be, however, that the reparation offering for a skin disease in the law is intended to serve as a trigger to memory. In making the offering, the Israelite is to recall what the Philistines did in order to cope with the Ark of the Covenant and the danger it represented. The Ark, after all, came into Philistine territory on account of its abuse at the hands of Eli's sons. It caused a plague among the Philistines. On its return to Israelite territory, the Ark wrought havoc among the inhabitants of Beth-shemesh, who compromised its holiness by voyeuristically looking into it (1 Sam 6:19). The implication may be that any involvement with the Ark of the Covenant is occasion to recall Israel's offenses, individual and communal, as occurs, for instance, on the Day of Atonement (Lev 16:2).

Milgrom states in regard to Lev 14:12, "The reparation offering is the key sacrifice in the ritual complex for the purification of the scale-diseased persons."[25] He also observes that, unlike other obligatory sacrifices, the poor cannot substitute for the reparation offering of a male lamb a less expensive offering (Lev 14:12, 21). In the narrative, it is at least noteworthy that the sacrifices of gold the Philistines return with the Ark in order to be healed highlight the expensive nature of their reparation offering. Moreover, the five gold objects corresponding to the five lords of the Philistines serve as sacrifices for both these aristocrats and the common people (1 Sam 6:4). Each class is burdened with the requirement. Among the Israelites, although a distinction is made between the offerings of the rich and the poor that accompany the reparation offering (Lev 14:10, 19–23, 30, 31), both classes have to offer male lambs for reparation. As for these accompanying offerings in Leviticus 14, after the Ark's return to Israelite territory some Israelites made offerings additional to the reparation offering that the Philistines had made (1 Sam 6:14, 15).

RITUALS FOR REMOVAL OF INFECTIONS

In the narrative, the Philistines send off the Ark on a cart drawn by two cows (1 Sam 6:7), the notion being that the evil (however defined) afflicting the Philistines is somehow transported away. The direction the cart takes is solely dependent on the disposition of the two animals—they are allowed to wander off with it. A similar notion of transporting evil applies in the law, only this time two birds are involved (Lev 13:4). The Israelite's affliction, which the bird's blood is supposed to expiate, is not bound up with a physical object like the Ark. Under its own direction, one of the birds transports "the assumed freight of impurity upward and outward, to far-off distances whence the impurity cannot return."[26] More precisely, whereas the cows are sent off from a Philistine city and come into an Israelite field (1 Sam 6:14), the bird

is sent off from an Israelite city, in which is an infected house, into the open field (Lev 14:53; cf. 14:7). In both narrative and law, the aim is to ensure that, by employing lower creatures, the evil does not return to the community, Philistine or Israelite.

Just as the rituals that the Philistines resort to are in recognition of the Israelite god's capacity to heal, so in Leviticus the rituals are also geared to recognizing that the Israelite god, not priestly action, is the channel through which healing occurs. Ritual considerations, not medical ones, apply when the Israelite goes to the priest and God. There are to be no physicians, drugs, or instruments, and it is the Philistines who first set the example.[27] Yahweh, we are to understand, directs both the cows and the bird. The cows wander off with the holiest of objects, and the bird goes off bearing on its body blood from a second bird that has been killed (Lev 14:1–7, 49–53). In each instance, the Ark (attached to the cows) and the blood (adhering to the bird) symbolically represent a life-force peculiarly associated with God.

In both story and law we have, first, idiosyncratic rituals involving animals and, then, formally supervised sacrificial rites. In 1 Samuel 6, after the cows arrive on Israelite territory they are sacrificed with fire kindled from the wooden cart on which they had borne the Ark. Even Levites are present to supervise the sacrifice. In the law, seven days after the ritual with the birds there is to be formal priestly supervision of sacrifices in the Tent of Meeting in furtherance of restoring the diseased person to the community (Lev 14:10–32). Again, the ritual process in the story involves the Ark first traveling from Philistine territory to a temporary location within the Israelite community, Beth-shemesh. It eventually has a settled location when it is moved to the town of Kiriath-jearim. In the law, the cleansed person first moves to a temporary location just outside the wilderness camp. If passed clean by the priest, he moves into his community; but seven days have to pass before he can enter his family home. Thus on the seventh day he has to shave off all his hair, wash his clothes, bathe himself, and then move into his own home. In each instance, the Ark and the person start from a contagious location, Philistine territory and the place outside the camp; move to a place where the contagion is beginning to lose its hold, within the Israelite community; and finally move to a settled spot, Kiriath-jearim and an Israelite house.

Yet a further link between story and law might be noted, although I would not wish to press it. When the Ark first comes into the territory of the Philistines, it causes the statue of the Philistine god, Dagon, to fall face down inside its house. After the Philistines restore it to its place beside the captured Ark, the next day Dagon again falls over, and this time both his head and two arms come off. In the law, part of the ritual of restoring a person to his house is that he has his right ear, right thumb, and right toe daubed first with blood, then with oil. Finally, the priest takes the remain-

ing oil and puts it on the head of the person being cleansed. Conjured up in each situation is the image of a body's outline and its extremities. Only there is this difference: whereas the statue of Dagon conveys disintegration in the Philistine sanctuary, the blood- and oil-anointed body of the Israelite conveys restoration after suffering—and not just bodily integration but also incorporation again into the community of worshipers at the sanctuary.

BUILDINGS AND CLOTHING

The subsequent rules make it clear that not only can people be affected with swellings and spots, but so too can articles of clothing and buildings such as a house. The lawgiver has Yahweh declare, "I put a leprous disease in a house in the land of your possession" (Lev 14:34). Why do we find such a blunt declaration in this particular instance?

In 1 Sam 5:1–5, the Ark, personifying Yahweh, not only causes tumors to break out on the Philistine people, but it plays havoc with the house of their god and the object, Dagon, which personifies their deity. The narrative describes in vivid detail Yahweh's direct actions in disturbing and then smashing the statue of Dagon in its house. Ever after, the Philistines, by not treading on its threshold, recall what happened in the house of their god (1 Sam 5:5). Like the Israelites, they have, we are to believe, rituals to engage historical memory. In any event, the exceptional situation in the midst of Israel's enemy, Yahweh's affliction of Dagon in his house, may have motivated the lawgiver to lay out matters among the Israelites themselves when Yahweh puts a leprous disease in an Israelite's house. Thus the priests should supervise pockmarks on buildings, and molds and mildews on houses, which in some sense Yahweh has placed on them. If the residents find the house leprous, for at least seven days they are not permitted to enter it, that is, to cross its threshold (Lev 14:38). The intent may be to have the Israelites recall, like the Philistines themselves, Yahweh's power.

The Philistine priests send away the source of their affliction, the Ark, to a place outside their cities (1 Samuel 5). In Lev 14:40, the Israelite priest directs that the affected stones of a house, which have Yahweh's blight on them, be thrown outside the city. Another possible correspondence between story and law is the extraordinary period of seven months during which the Ark causes tumors among the Philistines in contrast to seven-day periods of affliction that constitute the norm within the Israelite community (Lev 13:5, 6, 27, 32, 33, 34). Milgrom rightly underscores the artificiality in medical terms of these seven-day quarantine periods.[28]

The rules also focus on contaminated clothing. Conceivably, like the focus on a

house, the lawgiver turns to an everyday object in the life of an Israelite in contrast to the two objects, Dagon and his house, that identify the Philistines as a nation. It is interesting, perhaps, that the Israelite who reported to the sanctuary at Shiloh the loss of the Ark to the Philistines rent his clothes at the loss (1 Sam 4:12). A diseased Israelite has to go around with his clothes torn (Lev 13:45). In any event, there is some measure of correspondence between the affliction of an Israelite's place of residence and the clothing he wears and the affliction of the Philistine god's residence and his outward identity, the statue of Dagon.[29]

In Leviticus 10–14, the lawgiver presented topics in which the overriding concern is with some aspect of holiness. Biblical narratives, especially those relating to the priestly house at Shiloh, determine why a particular topic arises and why the laws follow a certain sequence. In each instance, moreover, the issues in the laws turn up in narratives that have comparable topics clearly linked to various aspects of holiness.

The topic of drunkenness in the sanctuary arises because of the high priest Eli's misjudgment that Hannah, the future mother of Samuel, is drunk within its precincts. She, in fact, is at the Shiloh sanctuary for the purpose of making a religious vow to give her hoped-for son to its service, but because she articulates it soundlessly, Eli draws the wrong conclusion. The issue, in turn, of what creatures the people can eat and which ones they cannot initially presents itself in a context where the priests, again in the sanctuary at Shiloh, offend when indulging their appetite for food. According to the lawgiver, the priests should themselves not only be observing proper distinctions in handling food offerings, but they should be teaching the people about the unclean creatures that they cannot eat as against the clean ones they can (Lev 10:11). This fundamental issue about appetite he traced to the time of the Flood's aftermath in Genesis 6–9. The topics of childbirth and skin diseases come up because, after the removal of the Ark of the Covenant from the Shiloh sanctuary, the extreme holiness attaching to it proves a potent force when a mother, one of the priests' wives, gives birth to a son, and when a foreign group has the tumor causing Ark in its midst.

CHAPTER TWO

Genital Impurity in the Lineages of David and Jonathan

Leviticus 15

Their lives, as do their lines till now, had lasted.

What prompted the lawgiver in Leviticus 15 to focus next on the topic of bodily or genital uncleanness (among Israelites in general), first of males and then of females? If the sequence of the rules in Leviticus 12–15 was based on the rules' topics following logically one to the next, we would have expected the order: childbirth, female discharges, male discharges, and scale diseases. Instead, we find: childbirth, scale diseases, male discharges, and, finally, female discharges.

By way of addressing the puzzle, I offer the following observations. The deaths of Eli's sons are attributable to their abuse of the people's sacrifices on account of greed, and their promiscuous sex with hierodules at the sanctuary in Shiloh. These actions desecrate the sanctuary (1 Sam 2:17). The Ark, which the sanctuary houses and which manifests a "virulent holiness,"[1] becomes the dominant force in the ensuing story about the deaths of the offending priests, the death of one of their wives in childbirth, and the plague of tumors among the Philistines. The lawgiver, I have tried to show, followed these events, linked as they are by the role of the Ark, and responded with his rules regulating appetite for meat, impurity associated with childbirth, and repellent growths.

After the problems caused by Israel's preeminent cultic object, the Ark, the next occasion when the topic arises of an Israelite's bodily impurity affecting his or her relationship to the sacred order is an incident concerning David and his friend Jonathan. King Saul expects David to attend his New Moon feast, but when he fails

to turn up, Saul concludes, "Something hath befallen him, he is not clean; surely he is not clean" (1 Sam 20:26). We do not learn what particular kind of uncleanness is meant. Indeed, the question is somewhat beside the point because David's non-appearance is, in fact, attributable to his fear that, if he does attend, Saul may be less than welcoming.

Rules	*Narratives*
Lev 15:2–15. Rules are given about bodily and genital discharges in males.	1 Samuel 20. King Saul attributes to David uncleanness that prevents him from attending the New Moon festival, at the same time also attributing genital uncleanness to his son, Jonathan, and the latter's mother because of his friendship with David.
Lev 15:16–18. Rules are provided about a male's emission as it affects himself and objects on which it falls, and also as it affects a sexual partner.	Genesis 38. David would not have been born if Judah's son Onan had not spilled his seed with Tamar and Tamar not lain with Judah and produced Perez, David's ancestor.
Lev 15:19–24. Rule is given about normal menstrual uncleanness.	Genesis 31. Jonathan would not have been born if Rachel had not avoided death by claiming to have her menstrual uncleanness and lived to produce Benjamin, Jonathan's ancestor.
Lev 15:25–30. Rule is given about abnormal female genital discharges.	1 Samuel 20. Jonathan's mother has pathological genital impurity attributed to her.

David's uncleanness is alleged (1 Samuel 20). *Rules about male uncleanness are presented* (Lev 15:2–15)

The first rule, Lev 15:2–15, reads (in part):

> When any man hath a running issue out of his flesh, because of his issue he is unclean. And this shall be his uncleanness in his issue: whether his flesh run with his issue, or his flesh be stopped from his issue, it is uncleanness. Every bed, whereon he lieth . . . and every thing on which he sitteth, shall be unclean. And whoever toucheth his bed shall wash his clothes. . . . And he that toucheth the flesh of him that hath the issue. . . And he that hath the issue spit upon him that is clean . . . and what saddle that soever he rideth upon that hath the issue shall be unclean . . . and the vessel of earth that he toucheth . . . and every vessel of wood . . .

The topic of male bodily impurity comes up not once but twice in the narrative about Saul and David. There is David's supposed, unspecified uncleanness and, in the very same context, we also have a reference to male (Jonathan's) and female (Jonathan's mother's) uncleanness. This time the particular focus is the genital part of the body. Saul is angry to hear from his son Jonathan that David fails to show up at the feast, not on account of some bodily impurity, but because he has to attend a family feast at Bethlehem. On hearing this explanation, Saul utters a crude curse against Jonathan for his friendship with David. His curse is to the effect that Jonathan brings shame upon himself and upon his mother's genitals from whence he had come forth (1 Sam 20:30). Saul does not openly refer to his and her genitals but to his "shame" and her "nakedness," terms that can point to the body in general but also euphemistically indicate the genitals. It is the allusion certainly intended by Saul. As we shall observe, the part of the insult involving Jonathan's mother contributes to the corresponding rules in Lev 15:19–30 about female bodily uncleanness, rules that concentrate solely on the genitals.

In commenting on the language of 1 Sam 20:30, P. Kyle McCarter states, "By calling Jonathan the son of a perverse, rebellious woman Saul means to brand Jonathan as genetically disloyal, but the choice of words points the insult at Jonathan's mother; his mother's nakedness refers euphemistically to her pudenda, which are shamed by his having entered the world thereby." Shimon Bar-Efrat's comment about 1 Sam 20:30 is even more to the point: "It is clear from Jonathan's answer that he sides with David. This infuriates Saul and causes him to use obscene language. Both *shame* (besides its usual meaning) and *nakedness* denote the genitals."[2]

When we turn to the initial law about the male in Leviticus 15, we find that it refers to uncleanness coming from the man's "flesh" (*baśar*). The term can cover bodily uncleanness in general (v. 8, for instance, caused by the man's spittle). The lawgiver has probably used it because he has been aware that Saul does not specify what kind of impurity the latter has in mind for David. Like the term "nakedness," the term is also euphemistic for the genitals. Indeed, this figurative use of the word "flesh" is the one mainly focused on in the law. Saul's attribution of undefined uncleanness to David and his concurrent curse involving Jonathan and his mother may explain in part why the law on male uncleanness (unlike the one on female uncleanness in Lev 15:19–30) has both bodily and genital impurity in view.

Saul's curse, in fact, points to a close connection between two kinds of male uncleanness, David's and Jonathan's. Jonathan's attachment to David provokes Saul to think of his son's and his mother's genitals in a shaming way because Saul perceives the friendship as an act of family disloyalty. As Saul sees it, the friendship is such that it renders the House of Saul unclean. So in a subtle way genital unclean-

ness attaches to Jonathan and Saul too, and David plays a role in causing it. The link reinforces the point that the lawgiver had reason to explore both bodily (David's) and genital (Jonathan's) uncleanness in a male.

A further consideration is in order. Yet another incident, related to the one under scrutiny, also focuses on David's sexual state. After the narrative relays Saul's comment that uncleanness keeps David from attending the New Moon feast, it recounts how David is actually at the Nob sanctuary, where he makes a statement claiming to be ritually clean (1 Sam 21:5–7 [4–6]). The claim centers on sexual purity because he says that he has kept himself from women at this point in time. The narrative thus proceeds from discussion about David's unspecified bodily uncleanness to reporting his declaration that he meets the requirement for sexual purity. The latter assertion is, in fact, open to doubt because David is intent on receiving sacred food to satisfy his pressing hunger. While the overall narrative is not suggesting that David is actually unclean in some way, the connected incidents may also help to explain why the initial law in Leviticus 15 takes up male bodily contamination but with a bias in the direction of genital uncleanness.

If David's situation at this time in his life has engaged the lawgiver's interest in the topic of male uncleanness, it may cast light on a puzzling aspect of the rule in Lev 15:2–15. Lev 15:8 surprisingly shows concern with uncleanness caused by the diseased male's spittle. Why should the lawgiver show an interest in this particular bodily discharge? As it happens, in the same context in which David is dealing with a hostile Saul we have a notice about how David takes up residence with King Achish of Gath. The king has occasion to fear his presence because he is only too well aware of David's past military exploits. Picking up on Achish's concern, David decides to feign madness, and the way in which he chooses to do so is to let his spittle run down his beard (1 Sam 21:14 [13]). The term *rir*, "flow," used as a verb in speaking of David's discharge is rare and is found elsewhere only as a noun in Job 6:6 and here in Lev 15:3. In that David himself indicates that there is something wrong with him, the lawgiver has opted for this perspective in thinking of David.[3]

In chapter 7 we shall find that the lawgiver looked at every facet of David's involvement in cultic affairs at this point in his life, again including the immediate aftermath of the preceding incident with Saul. As just noted, David is, in fact, not at a family feast but is instead at the Nob sanctuary when, surprisingly, his sexual state comes up for scrutiny. In order to receive sacred food, he claims to the resident priest there, Ahimelech, that he has been sexually abstinent (1 Sam 21:6 [5]). It is a claim that will play an important role in the later law in Lev 22:10–16: sacred food is prohibited to a layperson no matter his sexual state. What seems to be relevant to the law in Lev 15:2–15 is the portrayal of David during this period of his life: alleged to

be unclean, claiming to be sexually abstinent, letting spittle run down his beard, and continually riding around the countryside.[4]

Onan spills his seed (Genesis 38). *Rules concerning seminal emissions are presented* (Lev 15:16–18).

In Lev 15:16–18 we switch from a focus on diseased bodily discharges to a focus on healthy genital fluid that nonetheless proves defiling. The rule has puzzled commentators. It reads: "And if a man's seed of copulation go out from him, then he shall wash all his flesh in water and be unclean until the even. And every garment and skin, whereon is the seed of copulation, shall be washed with water, and be unclean until even. And the woman with whom a man lies [with] seed of copulation, they shall bathe in water, and be unclean until the even."

The rule begins with a concentration on a male's emission,[5] considers how the semen might come upon clothing or leather (skins),[6] and then explicitly brings in a sexual partner's contact with semen. The sexual partner is not necessarily a wife. Only the Samaritan text reads "her husband," and critics rightly reject this reading in favor of the Massoretic text's reading. Emphasizing that verse 18 (about the woman) is "a continuation of vv 16–17 and still deals with semen," Milgrom correctly points out that verses 16–18 have to be evaluated together.[7] It will not do to make, as both translators and commentators sometimes do, a separate rule of the third clause so that the latter stands apart: "If a man lies with a woman and has an emission of semen." The sentence continues the preceding focus on semen in verses 16 and 17.

Why does the rule focus first on a male's emission of semen before turning, in the same context, to an emission with a woman? I suggest that an earlier episode is under scrutiny: Onan's ejaculation outside of Tamar, who is not a wife in the regular sense (Genesis 38). In this episode, the prominent feature is indeed an emission of seed. A member of the first family of Israel, Judah, has two sons, Er and Onan. Judah takes a wife, Tamar, for Er, but Er does something displeasing to God, and God strikes him dead. Judah then sends Onan to Tamar in accordance with the levirate custom. Onan, however, because he would like to acquire his dead brother's share of the family estate, deceives his father by only going through the motions of intercourse with her. In fact, he withdraws and ejaculates outside of her. God strikes him down too. Spilling his seed is a highly significant action. The name Onan is a made-up one that incorporates his infamy (from *'on*, "virility") and is intended to recall it.

Onan's example is the only one in any biblical narrative that expressly focuses on a male's ejaculation of seed as such. The lawgiver's spotlight on it might explain why in the rule primacy is accorded to the male's emission. But the same focus might also account for the rule's joint concerns because Onan is not alone. He is with

Tamar. Reflecting on and extrapolating from the incident, a lawgiver might dwell first on a male's emission of semen, next on where it might fall, and then on an emission that affects a woman also.

Why would the lawgiver have turned from David's alleged uncleanness to Onan's act? His practice of considering the earliest precedent for a matter well explains his move. Both Onan and David (through Jesse) belong to the line of Judah. The striking fact about the lineage to which David belongs is that he would never have been born if Onan had not spilled his seed with Tamar. It was only after Onan's death because of his disloyal act to his family that Tamar proceeded to seduce Judah and produce Perez, the ancestor of David (Genesis 38; Ruth 4:18–22). From the lawgiver's priestly viewpoint, Onan's act was the first instance of male pollution due to an emission of seed, and he has readily linked Saul's comment about David's impurity to Onan's. Impurity runs in the family, so to speak. At least, the lawgiver, if not necessarily the narrator of the Samuel episode, has so perceived David and his lineage.

The perception of impurity in David's line eventually comes to dramatic expression in Matthew's genealogy of Jesus (Matthew 1). The only women who are cited in the genealogy are all linked to David, and dubious sexuality is associated with each of their roles. In sequence, we have Tamar, the cult prostitute who produces Perez by Judah, David's ancestor (Genesis 38; Matt 1:3). The Canaanite prostitute Rahab, according to Matthew, produces Boaz, the great-grandfather of David (Joshua 2; Matt 1:5). Ruth compromises herself by going to lie down beside the lone figure of Boaz, at midnight, after he has eaten and drunk and is lying down beside his freshly threshed heap of grain. It is Ruth who produces Obed, the grandfather of David (Ruth 3, 4; Matt 1:5). There is the wife of Uriah, Bathsheba, with whom David commits adultery. They then marry and she produces Solomon (2 Samuel 11, 12; Matt 1:6). Finally, there is Mary whose betrothed husband seeks to divorce her quietly because she is pregnant, but not by him (Matt 1:18, 19). The child Mary produces, the genealogy makes clear, is a "son of David" (Matt 1:20).

On account of his sustained interest in cultic matters, there is an allied reason why the lawgiver would have turned to Onan with Tamar after his spotlight on the alleged impurity of David that supposedly kept him from a festive occasion. In order to obtain seed from the house of Judah, the seed that results in the line from Perez to David, Tamar, after failing to receive the seed from Onan, puts on the clothes of a cult prostitute (*qedeshah*, "sacred woman"). Having done so, she proceeds to seduce Judah on his way to an annual sheep-shearing festival. Her possession of these clothes indicates an association with a Canaanite cultic shrine (Gen 38:21, 22). Such women later became attached to the Israelite sanctuary (Deut 23:18, 19; cf. 2 Kgs 23:7).[8]

Rachel makes a claim about menstrual blood (Genesis 31). *Rule considers normal menstruation* (Lev 15:19–24).

Once he deals with male discharges, the lawgiver next extends his discussion to female discharges. We might again ask why these were not dealt with after the rules about childbirth in Leviticus 12. In addressing the question, we have already noted that Saul's casting aspersion on his wife's (Jonathan's mother's) nakedness touches on the topic of female genital impurity. Like David's alleged uncleanness, hers also does not actually exist. What does exist is a famous instance of impurity on the part of Jonathan's first ancestress, Rachel. Why should the lawgiver have turned to it after consideration of Jonathan's mother's impurity?

The explanation is that Rachel gave birth to Benjamin, the eponymous head of the Benjaminite tribe of which Saul and Jonathan are members (1 Sam 9:1, 21). The narrator in 1 Samuel explicitly refers to Rachel. Thus in recounting the anointing of Saul from the House of Benjamin to be king over Israel (1 Sam 10:2), the sign that he has been chosen is that he meet with two men at the tomb of Rachel, who died giving birth to Benjamin. Just as David's line begins with Judah who, through Tamar, produced Perez, so Jonathan's line begins with Jacob who, through Rachel, produced Benjamin. Moreover, just as Onan's misuse of his semen led to his death and Tamar's subsequently going to Judah and producing Perez, so Rachel's misuse of menstrual blood led to her avoidance of death for stealing her father's household gods ("With whomsoever thou [Jacob to Laban] findest thy gods shall not live"), and going on to produce Benjamin (Gen 31:32–35; 35:16–20). If Rachel had not made her claim about menstrual blood, Jonathan would never have been born, just as David would never have been born if Onan had not spilled his semen.

Rachel steals her father's household gods because she perceives that he is withholding her right to form an independent family with her husband Jacob. When her father Laban pursues and catches up with the fleeing Jacob and his family, Rachel hides the sacred objects. Laban searches for them, but Rachel prevents him from entering the tent where they are hidden by claiming to be unclean because of her menstrual flow of blood. She tells her father that she cannot arise from the camel's saddle on which she sits (Gen 31:34). Implicit in her statement is that he should touch neither her nor the object on which she sits because each is off limits on account of menstrual blood. It is precisely such a narrative occurrence that typically triggers the lawgiver's interest in any implicit rule that might be at stake, in this instance the one underlying Rachel's attitude to her menstrual discharge. Thus we have the rule: "And if a woman have an issue and her issue in her flesh be blood, she shall be apart seven days: and whosoever toucheth her shall be unclean until the

even. And every thing that she lieth upon in her separation shall be unclean: every thing also that she sitteth upon shall be unclean" (Lev 15:19, 20). What is striking, and links one event to the other, is that both Rachel and Onan make use of genital discharges to escape detection of their wrongdoing, theft of her father's gods in Rachel's case, theft of a birthright in Onan's. Rachel's deception thus reveals a remarkable parallel to the unsuccessful ruse of Onan.

There is yet another striking parallel between the Judah-Onan-Tamar story and the story of Rachel and her father's gods. Each narrative has to do with a quite specific sacred matter. In the Tamar story, because of Onan's spurning his father's command to grant her conception, Tamar puts to use her avocation as a cult prostitute to become pregnant, as by rights is her due because she is a member of Judah's family and her dead husband's house has to be continued. In the Rachel story, Rachel sits on sacred objects, her father's domestic gods, to claim a right to her own household. Little wonder that, with his focus on priestly matters, the author of Leviticus revealed an interest in cultic activity within the first Israelite family. If, in truth, Rachel has her menstrual period, her sitting on these revered domestic objects is an offense against the sacred order of her Aramean religious culture. The incidents in question occur before there is an Israelite cult. They do, however, belong to its prehistory, and had there been no cult prostitute or household gods in this prehistory, David, Saul, and Jonathan would have had no part to play in the later Israelite cult.

Just as genealogical considerations play a major role in how the lawgiver has produced his laws on bodily and genital uncleanness, so too do they play an important role in the narratives about David and Jonathan. As commentators regularly point out, David is repeatedly referred to as the "son of Jesse" (1 Sam 20:27, 30, 31; 22:7, 8, 13; 25:10; 2 Sam 20:1).[9] Jonathan belongs to the line of Benjamin, whose mother is Rachel. Saul's, and hence Jonathan's, descent from Benjamin, and Jesse's and David's from Judah, are made much of in the Samuel narrative, for example, 1 Sam 22:7: "Hear now, ye Benjamites, will the son of Jesse give . . . you fields and vineyards" (cf. 1 Sam 9:1, 21; 10:20, 21; 16; 17:12). Saul actually directs attention to the ascendant of each when, condemning Jonathan for befriending David, he says, "thou hast chosen the son of Jesse to thine own shame and unto the shame of thy mother's nakedness" (1 Sam 20:30; cf. 1 Sam 20:27, 31; 22:7, 8, 13).[10]

The rivalry between Saul and David expresses the rivalry between the houses of Benjamin and Judah. Saul fears that his house is going to lose its leadership of the nation to the house of Judah. Male uncleanness is a feature of David's line but is similarly attributed to Jonathan's line, and female uncleanness is also a feature of Jonathan's. So we have rules first on male uncleanness, then we have rules on female uncleanness. The rules about the male extend beyond genital impurity but not the

ones about female impurity. The explanation is that while the focus on David and Jonathan is not just on their sexual state but also on an alleged, more general condition in the case of David, the focus on Jonathan's mother and his ancestress Rachel has to do solely with genital impurity.

Genital impurity is attributed to Jonathan's mother (1 Samuel 20). *Rule concerns pathological female genital discharges* (Lev 15:25–30).

The lawgiver next took up the topic of pathological female discharges. The focus on them is probably an understandable extension of the preceding concern with natural discharges, especially since he focused on both types of discharges among males. As we have already noted, however, Saul had occasion to focus on his wife's genitals as unclean because of his view of his son's disloyalty. The uncleanness in question is not associated with menstruation but with childbirth in an indirect and curiously retroactive way. Saul's wife's genitals have been rendered unclean by the fact that the disloyal Jonathan once emerged from them. The highly idiosyncratic nature of the mother's impurity may well have prompted the lawgiver to come up with more recognizable types of discharges neither menstrual nor associated with childbirth, ones inevitably pathological in nature. These appear to be of the kind cited by Martin Noth in his comment on the law in Lev 15:25: "A woman might have an irregular discharge of blood lasting beyond the usual period of menstruation, or altogether outside the menstrual period (v. 25a)."[11]

The peculiar background to the law also explains why the rules in Leviticus 15 about female discharges are not given with those about childbirth in Leviticus 12; and also why the rules include discharges not necessarily associated with childbirth but with pathological states. The rules about childbirth in Leviticus 12 (prompted by the death of Eli's daughter-in-law at childbirth) and those about women's genital discharges in Leviticus 15 (prompted by Rachel's ruse and Jonathan's mother's supposed affliction in having given him birth) are the product of the lawgiver's ruminations on different narrative traditions.

After his rules in Leviticus 12–14, in which the Ark of the Covenant plays a central role in the inspiration for them, the lawgiver continued to focus in Leviticus 15 on topics that concern uncleanness. The matters in question again turn up in certain narrative traditions. After the Ark settles back in the midst of Israel, the next two related occasions that bring up the topic of uncleanness in relation to the cult are when Saul attributes uncleanness to David at the time of the New Moon festival and when David asserts his sexual purity to the priest at the Nob sanctuary. On the same occasion when he is with Saul, the latter also attributes uncleanness to Jonathan and

Jonathan's mother. Noting the claims about David's and Jonathan's bodily state at this point in each man's life, the lawgiver pursued the problem of male uncleanness. He further developed his interest in the topic by tracing David's lineage back to circumstances that prove crucial for David's line of descent, namely, Onan's ejaculation outside of Tamar so as to avoid giving her conception. David's ancestor Perez is born when Tamar, disguised as a cult prostitute, irregularly seeks a child by her father-in-law Judah.

The related topic of female genital discharges appears next because, tracing back Jonathan's lineage, the lawgiver noted the claim that his first ancestress, Rachel, made about her menstrual uncleanness. It enables her to conceal the theft of her father's household gods and avoid death for doing so. Rachel then produces Benjamin, the head of Jonathan's lineage. The lawgiver has also expanded his reflection on the peculiar genital impurity imputed to Jonathan's mother. He thus set out a rule about genital uncleanness that was neither about normal menstruation nor about normal childbirth, but about pathological states. How the lawgiver moved from the topic of (mainly) genital discharges to rituals of expiation in Leviticus 16 I will address in the following chapter.

CHAPTER THREE

The Day of Atonement

Leviticus 16

> Repentance wipes off every crime, if attended with a reformation of life and manners.

Jewish tradition links the Day of Atonement with the story of Joseph in the book of Genesis. The book of Jubilees in the Pseudepigrapha (second century B.C.E.) explicitly connects them. A poetic version, *'eleh ezkerah* ("These things I remember"), of the Midrash *'asarah harugei malkhut*, which is recited on the Day of Atonement (in Ashkenazi ritual), recalls how the death of ten Jewish martyrs during the Hadrianic persecution (second century C.E.) atoned for the sin of Joseph's brothers. The twelfth-century codifier of Jewish law, Maimonides, also connects the ritual of Yom Kippur with the story of Joseph, as do other Jewish sources. On the face of it, the link is a surprising one, but I will argue that it goes back to the original biblical institution in Leviticus 16 and is readily explained by linking the law to the Genesis narrative about Joseph.

Before turning to the narrative to illuminate the law, I first pursue the question how we can explain the following transition in the book of Leviticus from one law to the next. After the topic of genital discharges (Leviticus 15), the lawgiver next sets down a reminder of the divine destruction visited upon Aaron's two sons for offering "strange fire" at the sanctuary in the wilderness ("And Yahweh spake unto Moses after the death of the two sons of Aaron, when they offered before Yahweh, and died"; Lev 16:1). The reference is to the event depicted in Leviticus 10 when no means of repentance was on offer for their offense. The lawgiver then focused on the

institution of a special day, the Day of Atonement, to remove all of the offenses committed by both priests and lay Israelites in the previous year (Leviticus 16). The salient feature of the ritual is that somehow it rids offenders of all manner of wrongdoing. It is much more than the rationalization that repentance is about reforming one's life and manners, or simply saying, however sincerely, "I have sinned."

In accounting for the transition from the topic of genital emissions (in the previous law) to the topic of expunging wrongdoing, we might first note more generally that in Leviticus 10–15 both priestly and lay offenses have engaged the lawgiver's attention. The wickedness of humankind (before the Flood) and the misconduct of Aaron's sons, Eli's sons, and Judah's son all came under the lawgiver's review. Death befell the offenders and in no instance did the issue of repentance arise. A second, especially revealing link between the subject matter of Leviticus 16 and the lawgiver's focus in Leviticus 10–14 on the story of Eli's sons is that in Lev 16:2 the potentially destructive nature of the Ark of the Covenant is made explicit. A priest can die if he wrongly approaches it. As we noted, the offenses of Eli's sons against the sanctuary at Shiloh triggered the destructive power of the Ark. What occurred prompted the lawgiver to reflect on the Ark's role in causing the death of Eli and his sons, the death of his daughter-in-law in childbirth, and the outbreak of skin disease among the Philistines. A third, related consideration is that, after the Ark is restored to Israel, the prophet Samuel gathers the people together at Mizpah. There, with no priests involved, the people "drew water and poured it out before Yahweh and fasted that day, and said, 'We have sinned against Yahweh'" (1 Sam 7:6). A request for forgiveness is explicitly made as part of a ritual act that Kyle McCarter claims "in many respects . . . anticipates the later observance of the Day of Atonement."[1]

The major feature of Leviticus 16 is the need for priests and people to have past wrongdoing actually removed or displaced elsewhere. How do we account for this peculiar requirement? If we focus on a shared aspect of Onan's and Rachel's offenses—the two under scrutiny in the immediately preceding material in Leviticus 15—we can possibly observe how the lawgiver proceeded. Onan's appropriation of his dead brother's share of the family estate by choosing to spill his seed on the ground is at the same time an attempt to ensure that the offense never comes to the attention of his father. Rachel's use of her menstrual blood is likewise an attempt to conceal from her father the appropriation of his household gods. By doing what they do, each recognizes wrongdoing (otherwise there was no need to resort to a ruse), and each uses a life-force, sperm and blood respectively, to conceal it.

On the Day of Atonement, animal blood effects expiation for wrongdoing—with the additional employment of a goat that is sent into the wilderness to the demonic being Azazel to remove all of the Israelites' offenses (Leviticus 16). It happens that

the same uses of blood and a goat also come together in yet another act of wrongdoing in Jacob's family—the one directed against Joseph by his brothers in Genesis 37. The Joseph story immediately precedes Onan's and is intimately linked to it. Joseph's brothers, like Onan and Rachel with their fathers, act with hostile intent against kin—in this instance, their brother Joseph and their father Jacob. The two stories, Genesis 37 (Joseph) and 38 (Onan), are brought together because the biblical narrator is set on demonstrating how divine justice operates. Judah, the father of Er and Onan and the ringleader in causing Jacob to lose his favorite son Joseph—his brothers go along with his plan (Gen 37:27)—experiences what it is like to lose sons. For his leading part in the offense in Genesis 37, Judah in Genesis 38 is paid back in similar coin.[2]

Onan tries to prevent his brother Er (through a successor) from becoming the leading son in Judah's family, just as Judah and his brothers seek to prevent Joseph from becoming the top ranked son in Jacob's (Israel's) family. The deceptive act of Judah and his brothers in conveying to Jacob the death of Joseph is, we might underline, similar to Onan's deceptive use of his seed. Onan deliberately misuses a life-force, sperm, to perpetuate his brother's death (by not giving him a son to carry on his name and estate). The brothers of Joseph engage in a comparable evil. They cover up their offense of kidnapping him by slaughtering a goat and misusing its blood to suggest that a wild animal has killed him. That is, and we can reintroduce Rachel's act at this point because it also involves blood as the means of deception, the brothers use a life-force, the blood of a goat, to imply the death of Joseph. As well as the fundamental wrongdoing in all three episodes—theft of a father's household gods, theft of a brother, and theft of inheritance rights—there is also a deception that constitutes a cover-up.

The lawgiver's focus on these wrongful actions, involving as they do the harnessing of God-given life-forces and testifying to a negative but understandable human trait to cover up offenses, gives rise to a most interesting question. Is there some ritual, even if necessarily containing some comparable sleight of hand, that would be acceptable to God whereby transgressions can be expunged? A positive response to this question is, I will argue, the scapegoat ritual in Leviticus 16, involving as it does blood and a goat for the purpose of removing offenses. The brothers deceive by conveying that Joseph perished by an act of God, a wild beast acting according to its nature. The lawgiver, in turn, has noted that, to truly expunge wrongdoing, only some ritual act that God validates will serve. By focusing on the brothers' offense, the lawgiver devised just such a ritual.[3] In their case, by means of the goat's blood they wrongfully transfer their transgression to the animal, which literally dies for their sins, and, however deplorable, its death becomes a symbolic or representa-

tional act. In the ritual of the Day of Atonement laid out for the descendants of these brothers, God approves the use of the blood of one goat to remove wrongdoing and the use of a second goat to receive the wrongdoing. In this chapter I will attempt to demonstrate in detail how the lawgiver pursued the topic of atonement and how the story of Joseph, in a most precise way, provided the inspiration for the ritual.

Rule	*Narrative*
Leviticus 16. A ritual of atonement involving a goat attempts to remove all the offenses of the sons of Israel for their conduct in the previous year.	Genesis 37, 39–50. By a ruse involving a goat, the sons of Jacob/Israel attempt to cover up their offense against their brother Joseph, but the offense is removed only when they seek forgiveness from Joseph who states that it is God who forgives.

THE ORIGIN OF THE RITUAL

The scapegoat ritual in Leviticus 16 has been of compelling interest to scholars. To explain it, they go mainly to Hittite and Mesopotamian parallels, emphasize differences, and try to convey the general distinctiveness of the biblical rite. A recent article by Ida Zatelli is a good example.[4] In it she examines an Eblaite purgation rite whereby a goat is sent toward the steppe (of Alini) with a bracelet tied to its neck as an offering. Unlike the biblical rite, however, there is no confession of transgressions over the animal. An especially important study is that of D. P. Wright. In a judiciously argued and clearly set out thesis, he has evaluated the ritual in Leviticus 16 in light of a number of parallel features to be found in rituals concerned with the elimination of impurity and evil in Near Eastern sources. Wright details examples of Hittite rituals, for instance, where humans and animals bear a plague back to the land of the enemy (the Pulisa ritual), or where there is the transfer of evil to an animal, which removes it to distant places (the Ambazzi ritual). In Mesopotamian ritual texts, many actions serve to remove evil—illness, for example—by transferring it to another object such as a slaughtered animal or to a figurine, which is then disposed of somewhere.[5]

The one major assumption that these and other scholars make in studying the biblical ritual is that it has a long and complicated history. They think that the ceremony we find in Leviticus is an adaptation of a rite (or rites) belonging to a distant, probably pre-Israelite past. In his commentary Martin Noth says that the biblical institution "makes a distinct impression of antiquity" and that "it doubtless represents a very ancient rite."[6] Zatelli's claim that the biblical ceremony has come down

from more ancient, non-Israelite cultures is put in the following way: "Certain cultural factors and certain traditions covered a wider area than many had thought. The steppes and desolate places were interrupted by large cultural centres, which were able to find ways of communication."[7] Neither author, however, delineates in any detail how the supposed precedents led to the biblical rite.

Unlike Noth, Wright attempts to find some pointer in the biblical account that might suggest a prehistory. He thinks that the mysterious figure of Azazel, to whom the sin-bearing goat is sent in the wilderness, is virtually without a function although it must originally have enjoyed one comparable with the role assigned to Near Eastern deities and demons. "Azazel does not appear to be an angry deity who needs to be appeased, nor a desert demon who is the custodian of evil." He is characterless and, Wright speculates, once had a demonic makeup that the Israelites demythologized because of their own religious beliefs.[8] Certainly, when set against the role of the demonic beings that Wright surveys in the Hittite and Mesopotamian rituals, the role of Azazel does not compare well. The problem is, I think, that he is not comparing like with like. Azazel never was, in my view, a figure similar to those in the Near Eastern sources.

The appeal to Near Eastern background has its place but is not the primary source of the biblical rite. I do not share the assumption that the biblical institution is the result of a long process of adaptation and modification of an existing rite or rites. Even when Wright tries to view the two aspects of Leviticus 16 that have the appearance of separate histories, the purgation of the sacred areas with blood and the removal of sin by the goat, he admits that the Leviticus lawgiver presents them as very much bound together.[9]

The Leviticus lawgiver constructed, I submit, the scapegoat ritual de novo. He attributed the institution of the Day of Atonement to the legendary Moses, but such an attribution should not be taken at face value. It is a mask for the real lawgiver's inventiveness. As in so many other instances, he imagined Moses looking back on events before he lived, on events during his lifetime, and on events yet to come. Engaged in composing the fiction of Moses speaking contemporaneously, the lawgiver understandably concealed that he also had under review events long before and long after the time of Moses. For him to be explicit about specific references to the future would have destroyed the fiction. A major determinant of the lawgiver's procedure was his desire to seek out and evaluate the first occurrence of a problem in the nation's history, one invariably idiosyncratic in nature, and address a similar, less idiosyncratic problem that might arise in the future. The scapegoat ritual of Leviticus 16 furnishes a fine example of how he worked.

Certain Pentateuchal laws commemorate events in Moses's time. Like the nar-

rator of these events, the lawgiver regarded them as formative of the cultural and religious history of the Israelite people. The institution of the Passover, for example, explicitly recalls the dramatic liberation of the Israelites from their enslavement in Egypt. The author of the book of Jubilees in the Pseudepigrapha views the Day of Atonement along similar lines. For this author, its institution recalls the occasion when Joseph's brothers caused their father Jacob to grieve because they deceitfully presented him with Joseph's bloodstained coat as evidence that he had perished. On the tenth day of the seventh month, supposedly the day on which the brothers slaughtered a kid of the goats, dipped Joseph's coat in its blood, and presented it to Jacob, the Israelites have to atone for this offense and all their other offenses (Jub 34:18, 19). The author of Jubilees inserts his account of the origin of the Day of Atonement into his presentation of the story of Joseph in Genesis 37. He does so in such a way as to suggest that the offending brothers themselves should have instituted the ritual. "They should make atonement for themselves with a young goat . . . on the tenth of the seventh month, once a year, for their sins; for they had grieved the affection of their father regarding Joseph his son" (Jub 34:18).[10]

IMPACT OF THE JOSEPH STORY

The author of Jubilees had good reason to link the Day of Atonement with the story of Joseph. The Leviticus lawgiver had already done so. Unlike the author of Jubilees, however, the Leviticus lawgiver did not openly draw attention to the Joseph story, but that is because the offense of Joseph's brothers does not take place in the time of Moses. Only on matters that occur in Moses's own time might the lawgiver actually mention the occasion that inspires a law. In Genesis 37, the brothers, pasturing the family flocks, act with hostility against their father's favorite son when he comes to look for them. They deliberate about killing him, but in the end they refrain. Assaulting him instead, they cast him into a pit in the wilderness. Joseph eventually is removed to Egypt where he becomes a slave, is imprisoned for an offense he did not commit, proves himself a master interpreter of dreams, and, on release, is appointed second in command to the pharaoh because he interprets aright the latter's dreams foretelling famine. Meanwhile, Jacob thinks that his son is deceased because his other sons furnish evidence involving a goat, an action that epitomizes their wrongdoing, which leads Jacob to conclude that Joseph is dead.

In the course of time, the brothers themselves have to travel from Canaan to Egypt to obtain food because of a famine that affects Canaan as well as Egypt. On the first of two visits, Joseph in disguise torments them, treating them as spies, for example. A consequence is that for the first time they acknowledge to themselves

their sin against Joseph: "In truth we are guilty concerning our brother, in that we saw the distress of his soul, when he besought us, and we would not listen" (Gen 42:21). They speak of sinning (*hata'*) against him and how they face a reckoning for his blood (Gen 42:22). Over time and after more torment from the disguised Joseph, the brothers on their second visit again appear to acknowledge their offense against Joseph and on this occasion reconcile with him. But it is not until after Jacob's death that the issue of forgiveness explicitly comes up. Fearing retribution for their original wrong against Joseph, the offending brothers tell him that their late father had ordered them to seek his forgiveness. They ask of him, "Forgive, I pray you, the transgression [*peša'*] of your brothers and their sin [*hatta't*], because they did evil to you . . . forgive the transgression of the servants of the God of your father" (Gen 50:17). Joseph is receptive to their petition. Although he acknowledges that they meant evil against him, he nonetheless gives a positive religious assessment of all that has taken place: "God meant it [the evil] for good" (Gen 50:20). It is the last and climactic interaction between the brothers and Joseph.

Critics attribute a Priestly (P) redaction to the Joseph story. Any priestly scrutiny of it would presumably regard the brothers' slaughter of the goat and their cheating with the blood not just as an outrageous moral wrong but also as an offense against the sacred order. What the ritual of the Day of Atonement does, I will argue, is to recollect, reverse, and thereby expiate several different aspects of the brothers' offenses: the assault on Joseph; the misuse of a life-force when they splash goat's blood on his coat; and the cover-up of the assault when they put blood on the coat and produce false evidence so that Jacob declares Joseph to be dead.

The issue for the lawgiver in Leviticus 16 is not the standard one of an individual's wrongdoing and its appropriate punishment. It is the decidedly complex matter of wrongdoing in general, not just an individual's but an entire group's, and—much more difficult to characterize—how to set it aside, how to salve guilty consciences, and how to deflect divine displeasure. There are important questions to ask of Leviticus 16. How has a lawgiver gone about inventing a ritual that serves to forgive the offenses of an entire group? What inspired him in the first place to provide an elaborate ritual in the matter? Why did he not simply require an offering to the sanctuary, and why did he focus on the offenses of a group rather than on those of an individual Israelite? In response to the latter question, we might note that the brothers' ruse with the goat is all about their wrongdoing, and when the question of their forgiveness arises, Jacob has all the brothers seek forgiveness (Gen 50:16, 17). In the narrative, that is, we already have a procedure that is linked to the wrongdoing of an entire group—the first sons of Israel, in fact.

CONSTRUCTION OF THE RITUAL

To devise the ritual, the Leviticus lawgiver, I suggest, dramatized the steps involved in the offense committed by Joseph's brothers. When they slaughter the goat and dip Joseph's coat in its blood, their purpose is comparable with what priests do when they use an animal's blood. In each instance, the aim is to address wrongdoing and somehow deflect it away from the offender. Only, in contrast to the brothers, the priests are intent on achieving the opposite of what an offense accomplishes. The offense pollutes, and an offering removes the pollution. Many rituals insist on acts analogous to those that they are designed to counter, as Wright documents.[11] The author of the book of Jubilees has, it would appear, so viewed the annual sacrifice of the goat on the tenth day of the seventh month: it commemorates the brothers' offense. The goat has to be killed to atone for their offense because, conversely, they offended by killing a goat falsely to suggest the death of Joseph. The ritual slaughter of the goat serves both to recall the offense and to purge it.

In Leviticus 16, the priest's procedure with the two goats echoes the steps the brothers take when deceiving their father. The result is that the cultic procedure combines both the factual and the fictional dimensions of their offense. They kill a goat and use its blood to stain Joseph's coat. This factual aspect of their offense receives dramatic expression in the ritual slaughter of a goat and the use of its blood by the priest to purge wrongdoing. The other dimension of the brothers' offense is the lie they craft by malevolently transforming the goat into a wild beast that evilly preys on Joseph in the wilderness. Without the goat's blood on Joseph's coat, Jacob could not have concluded that a wild beast had killed his son. The fictional aspect of their offense comes to dramatic expression in the ritual when the live goat is sent into the wilderness to an imaginary demonic being, Azazel. If we bear in mind the fanciful content of the brothers' trick, we are probably to view the ritual as giving expression to the goat in the Joseph story becoming a wild, demonized creature capable of an evil deed such as killing Joseph. The ritual tells us nothing about what happens to the goat after being sent into the wilderness. The explanation for the silence is that the hocus-pocus corresponds precisely to what happens in the legend: no evil beast, in fact, destroys Joseph.

I wonder too if we may be able to explain the unique feature in the ritual whereby the high priest Aaron puts on special clothing when he enters the sanctuary's inner shrine that houses the Ark. Within this most sacred of spaces he repeatedly splashes blood on objects from various animal sacrifices, including blood from one of the

goats (Lev 16:4, 14, 15, 19). After exiting from the inner part of the sanctuary and splashing more blood on both the outer sanctuary and the sacrificial altar, Aaron then sends the second goat live into the wilderness, removes his garments, bathes his body, and changes into his regular priestly vestment (Lev 16:24). David Wright suggests that the reason for the special clothing within the holy place is that in the course of carrying out his duties the high priest is more than likely to get blood on it.[12] Wright is surely correct in his observation, but we would want to ask why there are special garments (linen coat plus linen breeches) in the first place and why the garments must be removed even if there is blood on them. After all, the regular vestments that a priest wore in the sanctuary sometimes got blood on them, and when they do, he does not have to remove them and change into other clothes, but has to wash the blood off (Lev 6:27).

The text about the special clothing deserves closer scrutiny. After Aaron finishes splashing blood on the various sacred objects and has the live goat sent off into the wilderness, the text states, "he [Aaron] shall put off the linen garments, which he put on when he went into the holy place, and shall leave them there" (Lev 16:23). Critics automatically read into the instruction "and shall leave them there" that the garments are left aside with a view to laundering them.[13] But the text, which is quite detailed, does not say this. On other ritual occasions, if a garment has to be washed, the matter is made very clear (Lev 6:27; 11:25, 28, 40; 15:5–8, 10, 11).

I suggest that the special clothing in Leviticus 16 has to be left without washing because the blood-spattered coat (*ketonet;* Lev 16:4) is a deliberate reminder of Joseph's blood-spattered coat (*ketonet;* Gen 37:3), each with goat's blood.[14] Milgrom emphasizes the point that the clothing on the occasion is not a special priestly vestment but the kind of clothing that a layman might wear.[15] If so, we may be meant to recall Joseph's special garment that, with blood all over it, the brothers used to indicate his death (Genesis 37). If the lawgiver's aim is to incorporate the brothers' actions into a ritual of expiation, the entire ceremony would prove to be a reenactment of the brothers' offense: from the opening part about Aaron putting on the special garments, to his sending the live goat into the wilderness, and finally to the removing of these garments.

We might view, then, the Day of Atonement as a ritualized annual performance of the drama of the brothers' actions. On the occasion, the aim would be to induce the participants to confess their sins. Recalling first the particular offenses of their forefathers, they are then meant to add their own. If all the later sons of Israel relate their sins to the dramatic actions of the first sons of Israel, they too, like the latter, can seek forgiveness for them. The wrongdoing the brothers commit led to, I should

stress, the first time ever in the nation's history when forgiveness is sought and granted for an offense.[16] Later Israelites are to identify with these brothers and in turn receive forgiveness for their offenses.

There is confession of wrongdoing in Leviticus 16 and there is also a comparable confession—it is the first ever in biblical history—in the Joseph story. The brothers' declaration of guilt, however, leaves much to be desired. The first time the brothers acknowledge their wrongdoing it is only among themselves, although, unknown to them, Joseph overhears (Gen 42:21–23). The second time the matter arises, Joseph sheds his disguise, reveals himself to them, and expresses on their behalf their wrongdoing. In doing so, he puts a positive spin on their actions by stating that it was God who sent him to Egypt to save life (Gen 45:5). When, in a third instance of confession, they finally crave Joseph's forgiveness, he grants it but, as they prostrate themselves before him, he protests that he is not God (Gen 50:18–21). So while God is brought into the reckoning—he is responsible for turning evil into good—the notion that God forgives them is presumably implied.[17] I suggest that important aims of the lawgiver in Leviticus 16 were to set out the proper way in which the Israelites should confess their wrongdoing and to fully involve the deity in the process. The centrality of the cult achieves the latter aim.

While a crucial aspect of the process of forgiveness is remembering one's offenses and then confessing them, Leviticus 16 goes further: someway, somehow, the wrongdoing has to be removed.[18] This aspect of the process provides the most remarkable link between law and story. What the brothers in effect do when they kill the goat is to transfer their offense to it. That is precisely the point of the goat ritual in Leviticus 16. Aaron leans his two hands on the goat's head and transfers the transgressions of the Israelites to it before sending the animal off to the wilderness. To be sure, the brothers deceitfully and wrongfully shift their wrongdoing to the goat, whereas in the ritual their descendants openly and honestly have the goat remove theirs.

AIM OF THE RITUAL

If the elimination of wrongdoing by transferring it to an animal in the story contributes to the ritual in the law, how exactly has the lawgiver thought about the matter? One distinct possibility is that he took over from the story the notion that God turns the brothers' evildoing into good, a notion that crops up in the context of the brothers' receiving forgiveness for their misdeed (Gen 45:5–8; 50:20). On this reading of the law, a vicious fiction to escape responsibility for evil is turned to good account by transforming the fiction into a comparable one that serves to make Israelites confront their own evil and have it removed. After all, the brothers invent

the story of the wild beast and slay a goat to produce false evidence about its existence. In doing so, they are in fact recognizing that their attack on Joseph was wrong—so wrong that they create an elaborate lie to cover up their misdeed. In regard to their father, they are successful in transferring responsibility for Joseph's disappearance on to the animal, but from the perspective of the entire story they do not deceive God. For the lawgiver, what appeared necessary was not only that the Israelites should always recognize the need for family and acquaintances to forgive them any wrongdoing, but that God should also forgive it.

A second possibility should also be considered. Lawgivers deal all the time with wrongdoing and almost all the time with its appropriate punishment. A typical feature of punishment, especially prominent in biblical sources, is that there is some element of closure involved in the sense that there is an attempt to remove the wrong by having the culprit compensate the victim in a way that mirrors the offense. A reversal of the evil takes place. If an animal is wrongfully taken from its owner, the thief has to hand over a number of animals by a form of retribution that includes restitution (Exod 22:1). Out of the evil comes some good to the victim, but also to the wrongdoer in that he confronts the nature of his offense and finds that he has to undo it.[19] The wrongdoing itself supplies the model for attending to its removal, just as the brothers' wrongdoing with the goat supplies the model for the use of a goat to remove theirs, as we observe for their descendants in Leviticus 16 and in the book of Jubilees.[20]

A third consideration is that there probably existed at the time of the lawgiver and his contemporaries actual rituals for the elimination of evil in addition to the priestly ones known to be associated with the Temple cult, as well as knowledge of similar rituals in the broader culture around. These native and foreign practices may have contributed to the ceremony the lawgiver devised. Near Eastern rituals do involve the magical notion of transference of evil to animals and objects, and the aim of the lawgiver would have been to set out a distinctive Israelite version of such rituals.

FURTHER LINKS BETWEEN LEVITICUS AND GENESIS

There are other illuminating links between law and narrative. The ritual in Leviticus 16 describes how the goat goes not just to the wilderness (*midbar*) but to an *'eres gezera*. The Hebrew of the latter expression is usually taken in the sense of a cutoff part of land, that is, isolated and inaccessible. Critics rightly view as puzzling the use of the two expressions instead of just one. Together, however, they may be taking up the factual and fictional aspects of the brothers' offense. Factually, the brothers were grazing their flocks at Shechem when Joseph went to report on them,

but they had moved on to a place called Dothan, which is some twelve to fifteen miles from Shechem. It was at Dothan that they strip him of his coat and cast him into a waterless pit in the wilderness (*midbar*; Gen 37:22–24). Fictionally, the wild beast of the sort that preyed on Joseph might well visit places where shepherded animals graze, in the wilderness in this instance, but its habitat would indeed be terrain not accessed by shepherds or other human beings. The term *'eres gezera* would accurately describe it.

In the ritual, the goat is sent off into the wilderness without any explanation as to the point of the action. Erhard Gerstenberger finds it remarkable that there are no words of interpretation appended to what he, assuming an ancient origin for the scapegoat ritual, describes as an "archaic and murky custom."[21] In this matter of silence there is also a parallel in the narrative. The brothers kill a goat and put its blood on Joseph's coat. They then present the coat to Jacob back at his home without explaining how it has come to be in the state that it is in. It is Jacob who draws the conclusion that Joseph has been torn to pieces, not by a goat, but by a wild beast in the wilderness. In both narrative and law, ritual action elicits a story.

Jacob Milgrom points out that the term *peša'*, "transgression," appears twice in Lev 16:16, 21 (first in regard to the goat for the purification offering and then to the live goat), but is found nowhere else in the priestly code.[22] This observation is correct, but in light of my thesis it is significant that the term occurs twice in Gen 50:17 when the brothers ask Joseph to forgive them their transgression (*peša'*) against him. The term is not employed elsewhere in the Joseph story.

In the law, the goat goes off into the wilderness. The brothers' made-up story inspires the idea.[23] Fantastically, an innocent, herbivorous animal becomes an evil devourer of a human being, Joseph. Though it may be no more than coincidental, the idea of a domestic animal metamorphosing into a sinister one has a parallel in the Joseph story. In the pharaoh's dream, in order to convey—so Joseph interprets—the fate that awaits human beings, including Joseph and his brothers, the thin cows devour the fat ones (Gen 41:17–24). Like the brothers' goat, the weak cows become possessed of an out-of-character demonic nature.

Any rite that addresses the issue of forgiveness for wrongdoing has to focus primarily on the role of memory. An Israelite has to recall his individual wrongs and—equally important, because it is a national, communal rite—he has, I am arguing, also to recall his nation's beginnings, specifically, the first time the issue of the forgiveness of sins arose and the particular event that led to it. A primary function of the sin-bearing goat that goes into the wilderness to Azazel is, then, to trigger memory. The commemorative aspect of the ritual harks back to the brothers' deception

in a number of ways. The participant in the ritual is directed to the brothers' location in the wilderness where they perpetrate their offense. He is additionally reminded both of the assignment of the offense to the goat and the transformation of this domestic animal into a dangerous one. Even the language of the ritual is made to play a commemorative role. Just as the brothers link a goat to an evil beast, so the Leviticus ceremony links a goat to a demonic figure whose very name, *'aza'zel*, suggests a connection with a goat.

AZAZEL

The Septuagint and the Vulgate see a reference to a goat when they interpret *'aza'zel* as a contraction of *'ez*, "goat," and *'azal*, "to go away" (the scapegoat). Levine thinks that this etymology is artificial, but it is worth stressing that it does incorporate the goat. Levine himself also includes it in his proposed solution. He points out that there is a thematic relationship between Azazel and the *se'irim*, "goat-demons," of Lev 17:7, and suggests that the word *'ez*, "goat," is represented in Azazel. The form may have developed, he thinks, through a reduplication of the letter *zayin: 'ez-'el*, "mighty goat," first pronounced *'zez'el* and finally *'aza'zel*.[24] I would point out that the *se'irim* in Lev 17:7 appear to be genuine demons (thought of as having the shape of a goat), whereas the figure of Azazel is necessarily artificial because it alludes to the brothers' ruse, the goat *cum* wild beast. Hence the live goat in the ritual could not have gone to the *se'irim*. That the name Azazel came, in the later Pseudepigrapha, to refer to a demonic ruler of the wilderness is not surprising because it and the *se'irim* would have become readily linked.

If the name *'aza'zel* does have an association with a goat, the name most likely originated with the Leviticus lawgiver when contemplating the brothers' ploy. In later literature, the book of Enoch, for example, Azazel continues to be linked to incidents in, significantly, the book of Genesis, but the scope of its evil character has broadened. Thus Azazel is the leader of those angels who lust after the daughters of men and whose children, the giants, fill the earth with blood and unrighteousness (Gen 6:1–5; Enoch 8:1, 9:6). In some contexts in which Azazel appears, animal symbolism is prominent—for example, bulls and oxen represent the biblical patriarchs, and Azazel comes and pastures among them (Enoch 85, 86).[25] We have moved from two specific texts, the goat incident in Genesis 37 that, inspiring the ritual in Leviticus 16, links a domestic animal to the patriarch Joseph, to a range of texts with a personified figure of generalized evil. This is not a surprising development, especially if the goat and the demonic Azazel in the Leviticus ritual relate back to the broth-

ers' deceit. At some point, we might speculate, Azazel came to symbolize their malevolence of spirit and that development, in turn, led to the figure personifying evil in general (Enoch 10:8).

The instructions for the forgiveness of sins on the Day of Atonement are illumined once we see that they hark back to the first occurrence in the history of the nation when forgiveness was sought for an act of wrongdoing. The issues that come up in the story are those that the lawgiver has under review. The story is about the concealment of a transgression by the first sons of Israel and Joseph's attempt to have them openly acknowledge it when he trips them up by actions (claiming they are concealed spies, placing money in their sacks) that mirror their original actions against him (concealing their treatment of him, seeking money for him). The brothers do recall their wrongdoing and own up to it in his presence when his identity is still hidden from them (Gen 42:21–23). Eventually forgiveness is openly discussed.

The Day of Atonement, in turn, is also about concealed offenses and how the offenders are to own up to them in a context that involves cryptic expression (the ritual concerning the goat). The occasion is additionally about extending forgiveness to those seeking it. The lawgiver focused on the brothers' method of concealing an offense, its transfer to an animal, and made use of the ruse: his fellow Israelites have to focus on their offenses by transferring them to an animal. In the story, the brothers seek forgiveness but they do not openly recount the various sins that they have committed. The later descendants of Israel are not to conceal their offenses but, it is implied, are to confess them when seeking forgiveness.[26]

The ritual is largely commemorative in function and is not, as is generally thought, a relic of a rite with decidedly magical overtones from pre-Israelite times. In light of the preceding analysis, there is no need for critics to be bewildered by the ritual and to complain that there are "absolutely no elements that are specifically Israelite or that derive specifically from the Yahweh religion."[27] One indication that the ritual is commemorative is its sheer impracticality. How does one cause a goat to go off into the wilderness and have it remain there?[28] Lev 16:21 speaks of how a man "at hand" (*'ittî*) sends the goat away (possibly reflecting how the story does not single out any one brother as coming up with the idea of killing the goat and pretending that a wild beast had killed Joseph). Little wonder that, not appreciating its origin, later Jewish understanding of the ritual treated it as meant to function in real life and introduced human agency: the animal was led away and pushed over a ravine (*m. Yom.* 6:3–6).[29]

The author of Jubilees spells out in plain terms that the Day of Atonement and the Joseph story are very much bound together. It is an association that continued to

enjoy recognition in later Jewish tradition.[30] Thus Maimonides states: "The Sages . . . consider the reason for which the congregation is constantly atoned for by means of *se'îrîm* [(kids of) goats] is that the whole congregation of Israel committed their first act of disobedience [the brothers' offense against Joseph] with the help of a kid [*se'îr*] of goats." Equally interesting is Maimonides' observation about the relationship between the brothers' action with the goat and the priests' use of the goat on the Day of Atonement: "For the end of all these actions [using goats to atone for sin] is to establish firmly in the soul of every disobedient individual the constant need for remembering and making mention of his sin . . . and that he, his descendants . . . must seek forgiveness for the sin by an act of obedience belonging to the same species as the act of disobedience."[31] I have argued that the atoning ritual with the goat (Maimonides' act of obedience) imitates the brothers' use of it to convey that a wild beast had killed Joseph (Maimonides' act of disobedience). In the language of Gen 50:20, if forgiveness for evildoing is sought, God will reverse the evil and transform it into good.

Taking up the work of his student David Wright, Jacob Milgrom in his commentary assesses the similarities and dissimilarities between the rites of elimination of evil in Anatolia and Mesopotamia and the biblical rite of the scapegoat. The former rites, for example, are typically of an emergency nature, whereas the biblical one is not. Milgrom is at pains to stress how there is really no good parallel in the Near Eastern sources to the Leviticus institution. He nonetheless feels constrained to say that a very ancient foreign rite has at some point been adopted and altered in keeping with Israelite needs. His evidence is of the lightest kind. For example, because the term *peša'*, "transgression," is only found in the Leviticus material in regard to the Day of Atonement, its use constitutes an indication, he argues, that the material in which it occurs has been transplanted from some nonbiblical source.[32] In point of fact, its use has been inspired, as I have indicated, from a thoroughly biblical context, namely, the description of the brothers' offense against Joseph.

That the Leviticus lawgiver might have been familiar with some emergency rites of elimination of evil in surrounding cultures, or in his own, I take to be likely. I would emphasize, however, that it does not follow that he took over one of them and modified it. Rather, the more illuminating perspective is to assume that knowledge of customary rites on his part and that of his audience would make the one he constructed more readily intelligible. The Near Eastern comparisons that Wright, Zatelli, and Milgrom pursue are important because they evoke the atmosphere of concern about evil that may have prevailed among ordinary Israelites when the biblical lawgiver was writing. The fact that we can go to so many different cultures—Wright includes Greek, Roman, and even Indian[33]—and find parallel features suggests that

we should highlight analogy, not influence. That is, we should be wary of the assumption that the biblical ritual is a continuation in a changed form of some pre-existing pagan one. The Israelite ritual is, in my view, a product of the nation's own narrative history and moral reflection.

CHAPTER FOUR

The Slaughter of Animals

Leviticus 17:2–9

> I think I ought to express my admiration and wonder that so much argument has been used in this case, excellent argument, beautifully put, but nothing to do with the case at all.

In this chapter I wish to take issue with a problem that has played a major role in the study of the Old Testament. The rule in Lev 17:2–7 has been understood by conventional scholarship to provide crucial support for a theory that makes a distinction (in time and character) between Leviticus and Deuteronomy in regard to the slaughter of animals. I argue that the rule provides no such support. It reads:

> Speak unto Aaron, and unto his sons, and unto all the sons of Israel, and say unto them: This is the thing which Yahweh hath commanded, saying, What man soever there be of the house of Israel, that killeth an ox, or lamb, or goat, in the camp, or that killeth it out of the camp, And hath not brought it unto the door of the Tent of Meeting, to offer an offering unto Yahweh before the tabernacle of Yahweh; blood shall be imputed unto that man; he hath shed blood; and that man shall be cut off from among his people: To the end that the sons of Israel may bring their sacrifices, which they sacrifice in the open field, even that they may bring them unto Yahweh, unto the door of the Tent of Meeting, unto the priest, and offer them for peace offerings unto Yahweh. And the priest shall sprinkle the blood upon the altar of Yahweh at the door of the Tent of Meeting, and burn the fat for a sweet savour unto Yahweh. And they shall no more sacrifice their sacrifices unto goat demons, after whom they have gone a whoring. This shall be a statute for ever unto them throughout their generations.

The rule in Lev 17:2–7 is commonly understood to require that meat can only be consumed in a cultic context. Critics adhering to this view only differ as to whether there is but one recognized sanctuary or a number of them. In any event, the rule supposedly prohibits nonsacrificial, profane eating—all killing of domestic animals must be carried out within the confines of sanctuary life. Deuteronomy 12, on the other hand, is understood to demand centralized worship at one sanctuary, and if a person wishes to eat nonsacrificial, profane food without bringing it to the sanctuary, he may do so. He can slaughter it independently, as he would game animals. Judgments about the differences between the alleged stances of D and P/H redactions in this matter of eating meat have especially determined how scholars date the two documents.[1]

The rule in Lev 17:2–7 has proved difficult to interpret. Indeed, as critics have enumerated them to date, the difficulties are distressingly abundant, but this is so, I shall argue, because of a major misunderstanding. There is a host of problems. First, the initial statement about the killing of a domestic animal has been understood as a blanket statement that covers killing of any kind, whether for sacrificial or for ordinary eating purposes. The problem is the well-recognized one that it is utterly impractical to expect a person who wishes to cook and eat meat first to take the animal to a sanctuary to have it slaughtered under the supervision of priests. Second, to avoid this difficulty and to reconcile Leviticus with Deuteronomy, one proposed solution is to take the rule as referring only to animals that are intended for sacrificial purposes, the intent being to ensure that sacrificial animals are brought to the (or a) legitimate sanctuary.[2] A major problem with this proposal is that the rule renders the following one in Lev 17:8, 9 redundant, because the latter explicitly requires that all animals for sacrifice be brought to Yahweh's sanctuary.[3] Third, *if* the statement in Lev 17:3 is an all inclusive one, namely, that all domestic animals for slaughter must be brought to the sanctuary, it is remarkable to find no reason proffered for such an extreme requirement—why must meat for ordinary eating require priestly supervision at a sanctuary? Fourth, it is bewildering to find that killing the animal is equated with murdering a person. Fifth, the rule does come over as complicated. From the reference to the slaughter of the animal (singular), we move to a reference to sacrifices (plural) that have been sacrificed in the "open field," and these are then brought into connection with goat demons. Manifestly, when a rule of such major significance in the history of biblical interpretation reveals such multifaceted complexity, each of the problems requires the closest attention.

When critics refer to Deuteronomy and Leviticus, they assume that they are two separate works. The assumption rests on the major premise that the "books" were produced at different periods of time in Israelite history. Not only did different au-

thors compose D and P but they also did not live during the same period of time.[4] Because the positions staked out rest on shaky assumptions about the evolution of the Hebrew language and about the course of the history of ancient Israel, the idea that D and P are products of separate sources and eras is open to question. While I cannot pursue the topic in any systematic way within the compass of this chapter, I can at least raise doubts about long-standing views.

Rule	*Narrative*
Leviticus 17:2–7. A rule prohibits wrongful slaughter of an animal by a son of Israel.	Genesis 37. The sons of Jacob/Israel treacherously slaughter a goat in order to make it appear that a wild beast had killed Joseph.

My limited aim in this chapter is to argue that in Lev 17:2–7 neither regular sacrifices nor the consumption of meat—the two issues come up in the following rules in Leviticus 17—is the focus of the rule. Instead, the rule has a quite restricted meaning. Despite a possible impression to the contrary,[5] the lawgiver was not concerned with the issue of how one arranges to eat meat. Rather, he was initially focused on killing an animal for a deceptive purpose because he has under consideration Joseph's brothers' infamous slaughter of a goat. Writing at a time when all of the history up to the Exile lay before him, the lawgiver opposed also the deceptive slaughter of animals to goat demons in later monarchical times. If there is merit in my argument, the removal of a major misinterpretation eliminates in turn a prop in the theory about the relationship between D and P.

Let me expand, at the risk of some repetition, my own assumptions when interpreting these biblical texts. First, I assume that the often dubious conduct of the Israelites described in the traditions recorded in Genesis–2 Kings occasioned the need to make judgments in the form of ethical and legal rules as to what constitutes proper conduct for an idealized group of Israelites. Second, just as the writers responsible for recording the traditions arranged them according to how succeeding generations conducted themselves, so the lawgiver(s) imitated this arrangement by scrutinizing the conduct of one generation and then another. More precisely, the lawgiver(s) first and foremost looked at the initial occurrence of a problem as it turns up in the history related in Genesis–2 Kings and made a judgment on the subject matter in question. At the same time, he might also have looked at the same or a comparable problem that recurs in later generations. Third, the details of a narrative tradition determine the sequence and details of the laws that the lawgiver set down. A particular law is primarily related to the story that inspired it, not to the subject matter of the law that precedes it. Thus, if two laws in sequence share similar

subject matter, that is because of similar issues in the influencing story. Moreover, because the traditions, as stories, inevitably record idiosyncratic matters, it is the peculiarities in the stories that give rise to the topics taken up in the rules. This means, for example, that if a rule is general in character, a quite particular issue in a tradition has first attracted the lawgiver's attention, not some common problem in the lawgiver's society.[6] Fourth, by lawgiver I do not mean a historical figure called Moses but an anonymous writer or group of writers of a much later time than the supposed time when Moses lived. Fifth, in making his judgments on problematic issues that arise in the history of his nation, the lawgiver took laws already familiar to him (for example, concerning cultic matters) and expressed them anew in light of what, in this instance, occurs in the Joseph story. What his contemporary setting might have been we can but speculate as to time and place. My sense is about the time of the exile to Babylonia.

In a recent article, Jacob Milgrom, assuming a direct link between the rule and an actual problem in the life of ancient Israel, asks about the text in Lev 17:2–7: "Does H Advocate the Centralization of Worship?" Substituting more than one sanctuary, he argues no as to one central cultic center.[7] I will argue that he asks the wrong question of the text. The problem lies in its statement about the killing of domestic animals, the interpretation of which has become so fossilized that, quite without questioning, it remains part of the bedrock of received opinion.

As I have already indicated, many critics regard the rule as requiring that all domestic animals to be slaughtered, including those for ordinary eating, must be taken to the sanctuary. A standard view is that there is but one sanctuary in the land, the Temple in Jerusalem, and the animals have to be taken there. Such a requirement would be astonishing because of its sheer impracticality. There is the immense difficulty of transporting animals long distances in ancient times, the heat factor in a desert climate, the physical and organizational infrastructure required of Temple personnel to cope with the daily volume of animals to be slaughtered, and the problem of spoilage of the meat that is intended for consumption. No less astonishing is the readiness with which critics accept the standard interpretation.

Certainly, Milgrom (following Kaufmann and Elliot-Binns), addressing the implausibility of the requirement, argues that we should not presuppose the one central sanctuary but rather a multiplicity of sanctuaries.[8] All slaughter, except for game birds and game animals, is banned unless it occurs at one of these sites. Milgrom, moreover, is quite certain that should an animal be slaughtered aside from the ritual system, the person doing so has committed murder.[9] All slaughter (except game), then, is ritual slaughter, and if not, it is murder. Milgrom's proposal of multiple sanctuaries hardly lessens the issue of impracticality because the same problems in a less

intense form prevail. And one is also left puzzled at his insistence that when a human slaughters an animal independent of the cult and when a human takes the life of another human, both deeds are to be regarded as murder.

Those critics who assume that the rule should be taken as a blanket statement that covers the killing of herd animals, cultic or noncultic, at a sanctuary introduce a variety of rationalizations to address obvious impracticalities. In doing so, they acknowledge that they confront problems. A common suggestion is that in ancient Israel little meat was eaten—note how the automatic assumption is that the slaughtered animal is for eating—so that the lawgiver's demand was less onerous than might appear.[10] Milgrom thinks that this view about the sparse consumption of meat is wrong on the grounds that it was crucial to cull the males of the herd, which meant that they would be eaten.[11] Another common opinion is that the Kingdom of Judah, to which the rules supposedly applied, had been reduced to Jerusalem and some surrounding countryside.[12] The underlying rationale is, again, that it was not too impractical to bring the animals a shorter distance to the Temple for ritual slaughter.

My thesis points to a radically different reading of the material. In the preceding chapter I argued why the book of Jubilees related the ritual of the Day of Atonement to the Joseph story. The ritual's focus is on Joseph's brothers' transference of their wrongdoing to a goat by killing it, splashing its blood on his coat, and making it appear that a wild beast destroyed him (Genesis 37).[13] The issues raised by this same incident are, I propose, what the lawgiver continued to respond to in Lev 17:2–7.[14] We might note at the outset that the brothers' goat is not killed for the purpose of eating it.

In order to understand the rule in Lev 17:2–7, it is crucial to read it in its proper context. Different critics, taken up with the issue of impracticality underlying the rule, try to place what they think is a general statement about the slaughter of any domestic animal in different historical settings. Some postulate a setting in the wilderness during the exodus from Egypt, others the time after Sennacherib's invasion at the beginning of the seventh century, and others again, after the return from the exile in Babylon in the sixth century B.C.E. when Israel/Judah was small in size. It is important to point out that these critics can find no context yielding telling details that would explain why there is the prohibition against killing the animals in question other than at the Tent of Meeting, which they take as coded communication for the later Temple or some other major sanctuary. A common, unsubstantiated view is that any killing of an animal was a sacred act and consequently had to take place at a sanctuary.[15] Game animals are, however, excluded from the supposed requirement—why, one would like to know, if the notion of the sacred is so important.

The slaughter of the domestic animals in question, I claim, has to be linked to a

quite specific context—Genesis 37. The focus of the rule is not, in fact, the killing of a domestic animal—singular, not plural—for the purpose of eating its meat, but a decidedly limited one. The lawgiver raised the issue of animal slaughter because of the brothers' duplicitous action with the goat, which they killed. Failing to relate the initial part of the law (with its statement about killing an ox, or lamb, or goat) to its original context, critics make a fundamental error in reading the rule to include any kind of slaughter of domestic animals.

To give a text a general meaning when it should be given a restricted one can grossly distort its original tenor. New Testament scholars, for instance, wrongly attributed to the Sadducees a wholesale rejection of celestial beings because these scholars failed to limit the meaning of a text in Acts 23:8, which, like Lev 17:3, 4, appears to give a general sense: "For the Sadducees say that there is no resurrection nor angel nor spirit, but the Pharisees profess both." On closer inspection of the context in Acts, one realizes that the Sadducean rejection is restricted solely to a mode of celestial being that the proponents of the doctrine of resurrection believed existed in an interim state between death and resurrection. Unlike the Pharisees, the Sadducees rejected the notion of the resurrection of the dead, but like the Pharisees, they did believe in angels—only not the interim kind in question.[16] The rule in Lev 17:3, 4 likewise has a restricted meaning, not a general one. It means the killing of an ox, or lamb, or goat, not for any purpose but for a certain, nefarious one. As is made quite explicit, the concern is with killing an animal as one might murder a person. In an injunction like "talking during class will be punished," the meaning is not all talk, but only the kind that is disruptive. Likewise, when a merchant announces a sale, the meaning is not what is done habitually but what is to happen on a certain occasion. The general meaning that is attributed to Lev 17:3, 4 is the one that has become fossilized with the inevitable distortion of the rule itself.

Lev 17:3 states that whoever kills an ox, or lamb, or goat, either in the camp (in which Moses and his fellow Israelites reside) or outside it and does not bring it as an offering to the Tent of Meeting, commits an offense. It is worth dwelling on the plain meaning of the rule. So understood, the meaning is that an animal has first been killed and, should it not then be taken to the sanctuary, the offense has been committed.[17] The text is far from saying, although it is commonly understood to say, that should one wish to kill a domestic animal to consume its meat, it should be taken live to the Tent of Meeting and killed there. No doubt, if that were the requirement, it would be only sensible that the animal be transported live to the sanctuary. Except that we then face the issue, the practicality of taking the animals to it, which has troubled biblical scholars for so long. But this, I submit, is not the requirement at all.

The rule's initial concern is with the apparently curious matter of a single animal that has been slain—for whatever specific purpose is not spelled out.

Every aspect of the law becomes clear once we relate it to the brothers' offense against Joseph. The rule is not about killing an animal for the ordinary purpose of eating it.[18] Its focus is, I submit, on the brothers' deceitful use of a slaughtered domestic animal—they chose a goat—to conceal their transgression. What happens among the first family of Israelites is the lawgiver's starting point for the rest of his rule. The following statements in Lev 17:5, 7 are powerful indications that some decidedly unconventional issue is at stake. It is, indeed, surprising that critics ignore the import of these two verses when they give a general meaning to the opening statement about the ox, or lamb, or goat.[19] According to Lev 17:5, 7, the purpose of the law is to prevent the slaughter of animals in open countryside (v. 5)—no reason is given as to why there should be such a restraint—and to stop killing animals (v. 7) on behalf of goat demons (*śe'irim*). Surely these two texts suggest that the lawgiver's focus in each of the three texts (Lev 17:3, 5, 7) is with some specific kind of slaughter that involves a particular abuse, not the slaughter of animals in general that has its basis in some overarching principle of the author of Leviticus. Quite reasonably, because the matter is suspicious, the lawgiver adopted the position that any killing of an animal *other than for the ordinary purpose of appetite* should come under the control of the sanctuary. The matter would fall under Milgrom's statement: "Blood never defiles, except if spilled illicitly."[20]

The rule's contents relate back to the brothers' activity. They kill—*šaḥaṭ* (Gen 37:31) as in Lev 17:3—a goat not with the aim of consuming its flesh, but to suggest that the animal whose blood they make use of is some kind of wild creature that has killed their brother. It is not. It is just an ordinary domestic goat, and the law's point of departure is the brothers' evil slaughter of it. Only, in typical fashion, as I shall shortly indicate, the lawgiver expanded the range of his concern. He sought out in a succeeding generation an act parallel to the one he came upon with these brothers—not a singular occurrence, as with the brothers, but a repeated one.

Moses proclaims the law at that point in biblical history when, after the events of Joseph and his brothers—which, hardly surprising, invites Moses's attention—the Israelites experience enslavement in Egypt and delivery from it. Critics fail to give due weight to this—however fictional—explicit historical context when they speculate about the period of time on which the lawgiver was really focused. Moses refers to the "house of Israel." Joseph's brothers are its first members.[21] Addressing the situation in the wilderness, Moses requires that a domestic animal not be killed within the camp or outside of it but be brought to the Tent of Meeting to be slaughtered

there. Such a bald statement would strike any ancient hearer as odd if, as it seems to suggest, it were understood as a blanket statement about all domestic animals, including those for food. If, however, the injunction does not intend such inclusiveness (as in the injunction about talking during class), then its real intent, I submit, is to engage historical memory. The rule's recipient has to cast his mind back to some occasion when killing a domestic animal occurred for a reason quite out of the ordinary.[22] That is, the rule implies that, should one be tempted to kill a domestic animal *for an exceptional purpose* within the camp or outside of it, the intended act is to be resisted. Instead, the animal is to be brought to the Tent of Meeting to be slaughtered there (if not already slaughtered), so the priest can dispose of its blood and fat.

The brothers' business is with such domestic animals. On the occasion of their wrongdoing in a part of the wilderness where they are grazing their flocks—equivalent to beyond the camp in the law's terms—they slaughter the last of the three animals (ox, lamb, and goat) cited in the rule. As it proceeds (v. 5), the rule does indeed concern itself explicitly with the "sons of Israel" and any animal they might sacrifice in "the open field." The reference to the camp has been dropped. Reference to it, and also to an ox and a lamb, reflects the standard tendency of a lawgiver to cover more ground than the specific matter that has engaged his attention. The brothers of Joseph are the first sons of Israel, and they provide a notorious example of just such a slaughter in the open field. There is a sense, moreover, in which the goat is not just slaughtered but constitutes a sacrifice in that, as the brothers themselves make explicit (Gen 37:20, 26, 31), its death is a substitute for Joseph's because of the way in which they dispose of its blood. Equally significant, its demise also serves to save their own lives, which would have been in danger because they kidnapped Joseph.

Remarkably, should the Israelites whom Moses addresses in his rule not bring the animal to the Tent of Meeting but proceed to kill it beyond its confines, the offense is described in terms of a homicide. "Blood" is imputed to them. Milgrom states categorically that the offense—including killing for eating—is murder, as the killing of a fellow human being is murder.[23] Without any awareness as to why the lawgiver chose to state the matter this way, it is perhaps understandable that the text is so read, for the language used is found elsewhere only in regard to the killing of human beings. But Moses is not Pythagoras,[24] or a modern proponent of the rights of animals. It would indeed be odd for this broad equation to be made in a biblical source. It is not made in Gen 9:4, 5—just after the permission for humankind to eat meat (v. 3)—where beast and man (in that order) commit homicide, but where there is no indication whatsoever that a human's killing a beast for eating is to be equated with homicide. As has long been recognized, there is a major link between Leviticus 17 and Genesis 9 so that the latter's failure to mention homicide in regard to

killing an animal for eating is all the more surprising if Milgrom's position is to be given credence, which it is not.[25]

Why then in Leviticus 17 is the language of murder used and blood imputed to the killer of an animal in the circumstances depicted in the rule? Why also is the penalty the cutting off of the guilty person from his people? The incident in Genesis 37, which very much involves the wrongful use of blood, again proves illuminating. The brothers' intent is to make it appear that Joseph is the victim of a savage killing by a wild beast. In reality, it is they who are viciously disposed. At one point, Reuben has to persuade them not to murder him. As this eldest brother puts it, they are not to "strike him to the life [*nepeš*; cf. Lev 17:14]," "not to shed blood" (Gen 37:21, 22; *šapak dam* as in Lev 17:4). Judah also concludes in the end that they should not murder Joseph and "cover his blood" (Gen 37:26). So they "murder" the goat and use its blood as a substitute for murdering him. In the story, Joseph's fate is to be cut off from his people. In the rule, the same fate, mirroring the offense in the story, awaits the wrongdoer.

In a quite exact way the text of the rule in Lev 17:3, 4 comments on the brothers' activity. It addresses the situation where a son of the house of Israel has killed an animal not for the ordinary purpose of eating it or for a sanctioned religious purpose. Suspicion consequently falls on him, and "blood" is imputed to him. In the brothers' situation the slaughtered goat points precisely to dealings in murder at the human level. In giving his rule requiring that any slaughter of an animal out of the usual be resisted and the animal presented instead to the sanctuary, Moses necessarily has religion represented by the cultic Tent of Meeting that supposedly existed in the wilderness in his time. It is the equivalent of the deity's intangible sphere of influence in the Genesis narrative.

The rule calls for the animal to be presented as a peace offering. Such an offering is singularly appropriate for a situation comparable with the one in which the brothers find themselves. The characteristic feature of a peace offering, the deity setting his seal on it, is a sense of fellowship induced among those presenting the offering. It is precisely what is desperately needed among the brothers, reconciliation with Joseph and their father, a move that Reuben in his own way sought to initiate (Gen 37:22). The sanctuary meal provides an atmosphere opposite to the one prevailing at the repast of which they partake after throwing Joseph into the pit. At that meal they ponder how to be rid of him (Gen 37:25). Recall too that the need for fellow Israelites to forgive one another in Leviticus 16 (Day of Atonement) reflects a central aspect of the Joseph story.

Equally to the point, the rule is explicit about what is to be done with the animal's blood. The priest sprinkles it on the altar at Yahweh's sanctuary. Such an act is the

proper thing to do, contrary to the improper use of the animal's blood by the brothers. Milgrom asks why it is necessary to repeat the procedure about the blood when it has already been spelled out in Leviticus 3.[26] The explanation is that the lawgiver, not setting out rules that relate one to another in a code of laws but to matters arising in narrative traditions, counteracted the wrongful use of the goat's blood by the brothers.

The context of the Genesis narrative, then, in which the brothers kill an animal for malevolent reasons, contributes one strand to the explanation of the language about murdering an animal. They literally shed its blood, but the overtones of criminal homicide come from their malice. It is a totally misleading generalization, and one that is inherently improbable, to read the text in the Leviticus rule as requiring that any domestic animal not taken to a sanctuary for slaughter constitutes a capital crime. The rule's focus in verse 4 is not animals for slaughter in general but the animal whose blood the brothers shed. The striking nature of the language is intentional—it is to resonate with the story.

GENESIS 9 AND LEVITICUS

An important additional observation, however, regarding the killing of animals is to be made because of the well-recognized link between the rule and Genesis 9. The latter grants a human permission to kill an animal for eating purposes. The permission is granted in the context of rules about the wrongful killing of a person by a beast or by another person. The lawgiver in Lev 17:4 has, I suggest, inferred that the noncultic killing of a beast—*other than for appetite*—can also be bloodshed comparable with the wrongful killing of a person. In other words, the lawgiver in Lev 17:2–7 recognized that there is such an offense as the wrongful killing of an animal and the Joseph story provided him with an example.

Joseph's fate brings out a fundamental connection between humankind and animals in that the blood of a goat can be passed off as the blood of a human being. The first time attention is paid to the affinity is in the Flood story when there is explicit reflection on the relationship: neither beast nor human should kill a human, although a human can kill an animal to eat its flesh but not its blood. As a shared attribute of animals and humans, blood seems to be decisive in these injunctions that come from the new beginnings of the world after the Flood. The lawgiver in Leviticus invariably turned to such initial developments. In responding to the proposed murder of Joseph, he issued a judgment that shedding the blood of an animal *in certain circumstances* is comparable with shedding the blood of a human.

There is yet a further link between the law and the aftermath of the Flood story.

The injunction in Lev 17:5, 6 that an animal to be killed for some nefarious purpose should instead become a peace offering includes language that is found in the description of the first sacrifice after the terror of the Flood has passed. The burnt fat of the offering is to serve as a "sweet savour" to Yahweh (Gen 8:21; Lev 17:6). The explanation is again that the lawgiver took his cue from first-time developments. The intent of the sacrifice after the Flood is to recognize an end to violence—in this instance, to the violence that had prompted the deity to flood the earth. What the Flood story also attempts to resolve is precisely the kind of confusion that the brothers used to their advantage when they deliberately substituted animal for human blood in the perpetuation of their violence against Joseph. In order to address the issue of what animals and humans share in common, the Flood story itself lays out rules about animals' killing humans, humans' killing humans, and permission for humans to consume animal flesh but not animal blood.

GOAT DEMONS

The brothers' slaughter of the goat is bound up with their relationship to Joseph. The particular significance of what they do with the animal—the charade that a goat of their flocks is the killer of their brother (who, in fact, survives his ordeal with them)—cannot be readily translated into some kind of generally definable offense that is likely to repeat itself regularly. How then has the lawgiver proceeded? He focused, I suggest, on the heart of the matter, on the make-believe that characterizes their evil activity when they transform an innocent animal, a goat (*śeʿir*), into a wild creature that kills a human being. Ranging over the generations, he knew of a comparable iniquity involving such make-believe in at least one later generation of Israelites. And the practice to be condemned again concerns goats (*śeʿirim*) in the form, moreover, of goats with demons. They correspond to the transformed, malevolent goat that allegedly mauled Joseph.

As commentators point out, the law's focus in verse 7 is a practice we hear about in the time of the kings when animals are sacrificed in the service of these terrifying goat creatures. The latter, presumably, have the form of goats, or are wild goats that somehow symbolize the terror of the wilderness.[27] Whatever they are, the Chronicler cites King Jeroboam as guilty of the offense in question (2 Chron 11:15; cf. 2 Kgs 23:8, if the correct reading is *śeʿirim*).[28] As he generally did, the lawgiver scanned the history of the generations to see if what occurs in the first family of Israel repeats itself in some way. Jeroboam, it turns out, is intimately connected with the house of Joseph (1 Kgs 11:28). Even more to the point, the situation in monarchical times mirrors the bitter division prevailing among the first sons of Israel. Thus an explicit con-

cern in 2 Chron 11:4 and 1 Kgs 12:24 is that the tribes of Israel cease fighting, the language of the appeal being, "You shall not go up or fight against your brothers."

Although we do not know much about the goat demons cited in 2 Chron 11:15 (and 2 Kgs 23:8), it is revealing that the prophet Isaiah associates them with a part of the wilderness where, precisely like Joseph's brothers, shepherds take their flocks but desist from making a fold (Isa 13:20, 21; 34:14). It is terrain where sinister things can happen. After demonizing their goat, the brothers claim that Joseph met his fate in just such a location.[29]

The rule is to be "a statute for ever . . . throughout their [the sons of Israel's] generations" (Lev 17:7). The lawgiver Moses has indeed taken account of the first generation of the sons of Israel, his own generation, also a later one, and, finding matters in common between one generation and another, applies his rule to all generations.

INAPPROPRIATE SACRIFICES

The next rule in Lev 17:8, 9 reads: "And thou shalt say unto them, Whatsoever man there be of the house of Israel, or of the strangers which sojourn among you, that offereth a burnt offering or sacrifice, And hath not brought it unto the door of the Tent of Meeting, to offer it unto Yahweh; even that man shall be cut off from among his people." The rule is some indication that the preceding one is not about sacrifices in general. If it were, Lev 17:8, 9 would be redundant.[30] The lawgiver, I suggest, noting the wrongful use of an animal by the brothers, simply extended the range of his concern to include animals that might be inappropriately sacrificed. Actually, what the brothers do with the goat has sacrificial features. Its death is a substitute for Joseph's. The lawgiver specifies "burnt offerings and sacrifices," a combination that Milgrom points out shows up in priestly contexts involving individual, voluntary sacrifices.[31]

Another possible source of inspiration may have come from the description of the first sacrifice carried out after the Flood, when Noah builds an altar and offers burnt offerings whose "sweet savour" prompted the deity not to visit violence on the earth again (Gen 8:20–22; cf. Lev 17:6). The rule first cites burnt offerings and then sacrifices. Noah's altar is built at that point in time before the nations come into existence. Moses focuses on the Israelite nation's first altar. The sojourner is included in the rule possibly because the lawgiver was aware of the coming into existence of nations in the immediate aftermath of the Flood. The very next rule against eating blood (Lev 17:10–12) also takes up from the rule that is laid down in the aftermath of

the Flood: Gen 9:4 permits the consumption of an animal's flesh but not its blood also.

The statement in Lev 17:2–7 about slaughtering an ox, or lamb, or goat has been understood to mean any slaughter of these animals, whether for sacrificial or eating purposes. This inclusive meaning has led to major theories about the centralization of the cult in both Leviticus and Deuteronomy. The Leviticus stance supposedly differs from the Deuteronomic one with regard to the latter's rule about eating meat independent of cultic ritual. The statement in Lev 17:2–7, however, has a quite restricted meaning and is not about eating meat at all but about killing an animal for a wrongful purpose. Focusing first on the infamous slaughter of a goat by the brothers of Joseph in order to demonize it as his killer, the lawgiver then opposed the later slaughter of animals involving goat demons. The issue about how the Priestly material evaluates the role of the cult over against Deuteronomy's evaluation has been misunderstood. When we line up the law in Lev 17:2–7 with the laws about centralization in Deuteronomy 12, we are not comparing like with like. As to the issue of taking all domestic animals for eating to the central sanctuary (or, if not to one single, central sanctuary, to a number of them), that is simply not the topic of Lev 17:2–7.

CHAPTER FIVE

The Blood Taboo

Leviticus 17:10–16

> To the question whether we can give any explanation of this peculiar concern for blood, the simple answer is that we do not know.

Such commendable honesty notwithstanding, I would hope that the following remarks might make sense of the blood taboo. The taboo appears in Lev 17:10–16, in rules concerning the human consumption of meat:

> And whatsoever man there be of the house of Israel, or of the strangers that sojourn among you, that eateth any manner of blood; I will even set my face against that soul that eateth blood, and will cut him off from among his people. For the life of the flesh is in the blood: and I have given it to you upon the altar to make an atonement for your souls: for it is the blood that maketh atonement for the soul. Therefore I said unto the children of Israel, no soul of you shall eat blood, neither shall any stranger that sojourneth among you eat blood. And whatsoever man there be of the children of Israel, or of the strangers that sojourn among you, which hunteth and catcheth any beast or fowl that may be eaten: he shall even pour out the blood thereof, and cover it with dust. For it is the life of all flesh; the blood of it is for the life thereof: therefore I said unto the children of Israel, Ye shall eat the blood of no manner of flesh: for the life of all flesh is the blood thereof: whosoever eateth it shall be cut off. And every soul that eateth that which died of itself, or that which was torn [by a beast], whether it be one of your own country, or a stranger, he shall both wash his clothes, and bathe himself in water, and be unclean until the even: then shall he be clean. But if he wash them not, nor bathe his flesh; then he shall bear his iniquity.

EATING BLOOD

In his commentary on the book of Leviticus, Jacob Milgrom claims that the priestly class in ancient Israel rated above the Ten Commandments the prohibition against ingesting the blood of an animal when consuming its flesh. The Decalogue was for Israel, but the blood prohibition was for all of humankind (Lev 17:10–16; Gen 9:1–7). He also attaches considerable weight to the fact that the blood prohibition is a major theme of an entire chapter of Leviticus (17) and that within five verses the prohibition occurs five times. "Such staccato repetition is unprecedented in law; it betrays the strident alarm of the legislator lest this fundamental principle be violated."[1] To highlight what he thinks is the centrality of the rule in the biblical scheme of things, Milgrom further claims that its remarkable character is thrown into sharper relief when we note that there is nothing comparable in the Near Eastern background. Blood plays no significant role in the cults of Israel's neighbors. The biblical notion that the life-force resides in the blood is without parallel, and the prohibition against eating it is quite unique. The Arabs, for example, until Mohammed's time, partook of blood.[2] Milgrom concludes: "Life is inviolable; it may not be treated lightly. Mankind has a right to nourishment, not to life. Hence the blood, the symbol of life, must be drained, returned to the universe, to God."[3] For Milgrom, and other scholars, the blood prohibition points to the major religious character of biblical and Jewish law.

I first wish to raise some questions about Milgrom's assessment. What does it actually mean to ingest meat with the blood still in it?[4] It is plainly the case that any meat that is consumed will contain blood. Even the later refinements introduced into Jewish law with a view to upholding the biblical injunction recognize that blood remains in the meat. The Talmud, for example, limits the prohibition to the expulsion of blood from the arteries. Recognizing that the prohibition cannot mean the removal of all the blood from the animal, scholars typically resort to the claim that Israel's neighbors must have consumed raw flesh and blood together with no attempt to remove the blood. The biblical injunction is consequently aimed against a foreign practice. No evidence is forthcoming, however, to support the claim.[5]

The standard interpretation might seem to receive support from the injunction in Lev 18:3 that the Israelites should not do what their neighbors, the Egyptians and the Canaanites, do. But this statement, which actually comes after the concern about the blood, introduces prohibitions against incest. Moreover, the attribution of bad things to these nations is decidedly problematical. The implication is that these foreigners engage in the very acts that the Israelites should not engage in. Yet the evi-

dence is quite the reverse. It is the ancestors of the Israelites who themselves contract relationships of the kind that the incest rules proscribe. To cite but two, Abraham is married to his half sister, Sarah, and Moses's father, Amram, is married to his aunt, Jochebed, both unions being proscribed in Leviticus (Lev 18:9, 11, 14; 20:17).

In fact, the biblical lawgiver is perfectly aware that his own ancestors are blameworthy. The reason why he cites foreigners as the offenders is that the progenitors of his nation lived among these other nations and, so he inferred, came under their baneful influence.[6] In regard to the blood prohibition, it will turn out that the first family of Israel, not some foreign group either directly or indirectly, elicits the problem about blood.

Rule	*Narrative*
Leviticus 17:10–16. The rules prohibit eating meat with blood in it, or eating an animal that has died naturally or one that has been mauled by a wild beast.	Genesis 37. The sons of Jacob/Israel slaughter a goat in order to use its blood to make it appear that Joseph has been eaten by a wild beast.

Erhard Gerstenberger justifiably introduces a note of puzzlement about the prohibition. Struck by the fact that so much of Leviticus 17 is primarily about how to deal with blood, and apparently unimpressed by the claim about practices among Israel's neighbors, he asks, "Was there really any temptation at all in Israel to violate this particular taboo?" He further points out that ravenous people who eat blood were not likely to be focused on the animal's blood as such.[7] What people do *in extremis,* moreover, is often excusable. Gerstenberger can offer no illumination as to why there should be a need for the prohibition.[8]

Why do so many critics take it for granted that the surrounding nations were given to such barbaric eating habits? Hartley states, with no documentation or expansion, "Throughout the ancient world it was a common practice to consume animal blood in a variety of forms."[9] In regard to the subsequent rule about hunting, Baruch Schwartz states that the reason why a hunter has to drain the blood from his prey and cover it with the earth's dust is because "if the hunter leaves the blood untouched, he, or a passer-by, might be tempted to eat it." But Schwartz gives no indication of such strange eating (drinking?) habits on the part of these ancients. His claim, in fact, is a bewildering one. It probably contains within it two contradictory needs that David Daube saw as characterizing a contemporary stance to the ancient world, one that constantly impairs research. We "look down on the 'primitives' from the height of our progress," and we "look up to them from the depth of our decadence."[10] On the one hand, assuming more refinement in how we eat, we deplore the ancients'

supposedly uncivilized ways. On the other hand, burdened by the complex nature of contemporary society and its focus on inwardness, we admire those ancients who engage in direct action supposedly free of inhibitions.

JOSEPH AS PREY

To comprehend the blood prohibition, it is crucial to highlight its puzzling character and ask whether the rule perhaps originates from a surprising quarter. After all, some specific issue is likely to have prompted the concern initially, not some grand idea about the mystery of life—Milgrom's rational principle concerning the inviolability of life—that the Israelites broke through to and then chose to express in concrete form by means of the blood prohibition. The culture-shaping role of law does not work in the way Milgrom thinks. If the biblical rule is unique, as he claims, that is because it is likely to be based on an idiosyncratic occurrence. I propose that an odd event does indeed trigger the blood taboo and, because of the lack of any propensity on the part of the Israelites to consume meat soaked with blood, also explains its unreal character. The springboard is the truly heinous misdeed of Joseph's brothers when they slaughter a goat of their flock and dip Joseph's coat in its blood in order to suggest to their father that a wild beast has eaten Joseph. The writer of Genesis, I shall shortly note, views the family violence directed against Joseph precisely along the lines of a human being acting as a wild beast does with its prey. Central to the law is the concern to uphold the fundamental distinction between the conduct of humans and the conduct of animals.

What a beast does with its victim constitutes, in fact, the quintessential example of one creature consuming the raw flesh and blood of another one. The desire of the Israelites to keep their distance from such bestial practice comes out in the prohibition against humans' eating those creatures that kill and then consume other creatures (Lev 11:13–19; Deut 14:3–20).[11] Let us note right away that in Leviticus 17 the prohibition and the other rules that follow—hunting game, eating an animal that has died of natural causes, and eating an animal that has been savaged by another—all involve examples that we normally associate not with human action but with how wild beasts indulge their appetite. Surprisingly, no commentator that I am aware of has made this straightforward observation, never mind pondered it.

An obvious question is what would bring to a lawgiver's attention the odd topic of a human being's consumption of a slaughtered animal's raw flesh and blood?[12] Why would a lawgiver set out the example of such eating when it is an extremely unlikely occurrence in the normal way of things? The answer is that he sees reason—a quite specific reason I shall shortly argue when I examine the role of Genesis 9 for

understanding Leviticus 17—to set down the hypothetical, hence largely unreal human parallel to the example of the wild beast that supposedly consumed Joseph.[13] Because the brothers fabricate the animal's evil deed, and because they themselves treat Joseph so viciously, the question arises: what is the comparable human offense to the one they concoct about the goat *cum* wild animal? The answer is a human's killing of an animal and the consumption of its flesh and blood, the reverse of the one treacherously invoked in the story.[14] The very next rule concerns human beings doing exactly what a wild beast does, namely, preying on the kinds of creatures that wild animals typically prey on. Thus the focus is on someone hunting down an animal or bird with a view to eating it. Contrary to what the wild animal would do with its quarry, the human killer must first drain off the blood and cover it with dust in order, no doubt, to fulfill the strict requirement to separate life (in the form of blood) from death (the corpse of the animal). The point of what seems to be an unnecessary rule is to focus attention on the blood because of the brothers' offense. Recall that Joseph's brothers deliberately drain off the blood of a goat and splash it on Joseph's coat to convey that a wild beast has eaten him. There is a very real sense in which they play the part of a wild beast with a human victim. Recall too that the immediately preceding rule in Lev 17:2–9 is about killing an animal in open country for a wrongful purpose, exactly what the brothers do in dealing with Joseph. Odd rules serve to explore odd events.

Equally noteworthy is that the next two rules also shadow what occurs in the Joseph story. The first concerns an animal carcass where death has come about by natural causes. Next there is the example of a creature that has died because a beast has savaged it. The Genesis narrative presents an example, a human one (Joseph), of a living creature who if he had remained in the pit in the wilderness would have died of natural causes. His fate would indeed, because of the pit's location, have been consumption by a wild creature, blood and all. As for an animal that dies of itself, it would, more likely than not, do so because of falling into a pit. (Liability for such a contingency is a matter taken up in a rule in Exod 21:33, 34.) Again, the story is explicit about a torn creature (Joseph) that is mauled by a wild beast, the term *ṭereph* being used both for Joseph's alleged fate in the story and the savaged creature in the law.

The prohibition against eating an animal that has died of natural causes is not about pragmatic considerations, an attempt, for example, to ensure that an Israelite does not become infected from the dead creature. The similar rule in Deut 14:21 actually permits the Israelite to give the carcass to a resident alien or to sell it to a foreigner. It would not do to claim that the reason for the permission is the cynical one that the animal's possibly diseased state does not matter for the alien or foreigner.

The rule about carrion and the other comparable ones in Leviticus 17 are geared, I submit, to raising the topic of the use of blood not for any practical purpose such as a concern with health, but to permit priests inroads over matters of conscience. Because of the brothers' evil in manipulating goat's blood to cover up their misdeed and because they are later stricken in conscience for what they did to Joseph (Gen 42:21–23), the priests, in turn, focus on wrongdoing that—for them—attaches to ways in which humans handle blood. A good deal more has to be explained, however: first and foremost, why the rule in Lev 17:10–16, unlike the story, concerns a wrongful *human* act of eating flesh with blood.

THE BLOOD PROHIBITION IN GEN 9:4 AND LEVITICUS 17

The lawgiver's scrutiny of the Joseph story triggered in my view the topic of the blood taboo in Leviticus 17. There is, however, another major source of inspiration that explains exactly why rules concerning *humans*' eating meat with blood in it come to be set down in response to the brothers' offense with the animal's blood. Scholars have long recognized the major link in language and subject matter between the aftermath of the Flood story and Leviticus 17. Vervenne's careful analysis leads him to conclude: "The stylistic and linguistic affinities between Gen. 9 and Lev. 17 undoubtedly reveal a literary correlation."[15] There is indeed such a correlation, but how do we account for it? I suggest the answer lies in the typical procedure of the lawgiver. He turned back to the earliest instance of the issue that he found in the case on which he was rendering judgment, the offense of Joseph's brothers, and located it in the narrative of the Flood.

The parallels between the Joseph story and the episode of the Flood are, in fact, quite striking, and for the present purpose we might note one of them. Just as we find the brothers' murderous intent against Joseph combined with the allegation that an animal killed him, so we find this combination of topics in the aftermath of the Flood. Thus in Gen 9:1–6 there is first a focus on an animal killing a human and then on a human killing a fellow human. And this focus is tied in with the apparently different issue of humans killing animals for meat, precisely the topic taken up in the various rules in Lev 17:10–16 but not raised in the Joseph story.

How do the topics of homicide by beast and human, and the human consumption of animal meat, come to be linked in Gen 9:1–6? "Every moving thing that liveth shall be meat for you; even as the green herb have I given you all things. But flesh with the life thereof, which is the blood thereof, shall ye not eat. And surely your blood of your lives will I require; at the hand of every beast will I require it, and

at the hand of man; at the hand of every man's brother will I require the life of man. Whoso sheddeth man's blood, by man shall his blood be shed: for in the image of God made he man."

The deity first grants permission to humans to kill animals with a view to eating their flesh, but there is a restriction in that the blood of the animal must not be consumed along with its flesh. Then, following the restriction on the human consumption of blood comes the deity's injunction that animals or persons taking a human life must forfeit their blood (life). We have to ask why at the conclusion to the Flood story is there the permission granted to humans to eat meat, and why is there the requirement about an animal's (as well as a human's) blood being forfeit? The answers to these questions lie, I submit, in the nature of the narrator's quest in Gen 9:1–6, one in which the Leviticus lawgiver has already tapped into (in his food rules in Leviticus 11 and in the preceding rule in Lev 17:2–9 about killing an animal for nefarious purposes).

Evaluating by means of a story the ineradicable fact of violence in the world, the Genesis narrator is intent on an etiological exercise: how to come to terms with the unending instances of death and destruction among sentient creatures. Humans kill animals but also their own kind, and animals sometimes kill humans (and other animals). Because the Flood came about on account of "the earth being filled with violence through them [all flesh, that is, human and animal]" (Gen 6:12, 13), the narrator concludes his story by resolving the issue of violence. Resolving it as best he can, I should add, for he recognizes the continuing reality of violence when he attributes to the deity after the Flood the assertion: "I will not again curse the ground any more for man's sake; for the imagination of man's heart is evil from his youth" (Gen 8:21).

In the conclusion to the Flood story, the narrator is not primarily dealing with the problem of animal and human violence as a matter of law and order, but is reflecting on the nature of the world. To this end he ponders the distinction between humans and animals and chooses to draw it on the basis of certain observations.[16] When a wild animal (*ḥaya*) kills a fellow creature, it consumes, naturally so to speak, flesh and blood together, but it is rare, in a way unnatural, for an animal to kill a human for food.[17] The priority given in the text to an animal killing a human as against a fellow creature is attributable to the narrator's focus on such an abnormal act on the part of a carnivorous animal.[18] He views this kind of killing by an animal as violating the divine order of things, the deity consequently demanding the forfeiture of the animal's life. Humans, in turn, kill animals for food but refrain (mostly) from eating, as in a way unnatural, its blood with its flesh. The narrator similarly views the human consumption of flesh and blood together as against the divine order,

as an animal-like act that abolishes the fundamental distinction between humans and animals as laid down by the deity after the Flood.[19]

Born of reflection on what is and what is not the natural order of things, there is in Gen 9:1–6 the closest of links between an animal savaging a human and a human slaughtering and consuming together an animal's raw flesh and blood. I would again stress the etiological character of the material. It is an attempt to explain why humans do not go in for eating flesh and blood together.

It is this section of Genesis 9 that the lawgiver in Leviticus 17 found so closely allied to the Joseph story. These brothers deliberately confuse Joseph's fate at their murderous hands by their claim that a wild beast killed him. They further create the impression that an animal's blood is Joseph's own blood. They thus present a prime example of Israelites, the very first ones, exploiting a fundamental distinction between animals and humans that the deity laid down at the beginning of the world after the Flood. That is why the lawgiver is motivated to repeat in Lev 17:10 the rule against humans' killing a beast and eating its flesh and blood (Gen 9:4). These brothers stooped to barbaric behavior in their treatment of Joseph and their father. Although there is no indication whatsoever that they also consumed the slaughtered goat's raw flesh and blood, their appalling conduct points to what in certain circumstances comparably impassioned men might do.[20]

By means of the rule, the lawgiver was intent on reaffirming the need for the Israelites to be mindful of what separates them from wild animals.[21] When the brothers make it out that a beast has killed Joseph, they are, according to the thinking behind Gen 9:5, pointing to an act by a beast that warrants its death. A beast has "offended" against the order of things established after the Flood. In incorporating in Leviticus 17 the Gen 9:4 injunction against the human consumption of an animal's blood, the lawgiver is at the same time setting down the equivalent human offense to the animal's consuming the human.[22] A human can kill an animal for food but must not take its "life," that is, its blood.

In Gen 9:5, the deity demands, or requires, the blood of beast and human should either kill a person. In Genesis 37–50, the issue of the beast's killing Joseph and the issue of the brothers' responsibility for his fate are inextricably bound together. At one point, thinking back to their action in being rid of him, the eldest brother Reuben speaks to his other brothers about how they face a reckoning from God for his blood (Gen 42:22). In both Gen 9:5 and Gen 42:22, the expression used for "requiring the blood" is *daraš dam*.

The rules in Leviticus 17 concerning blood unpack aspects of the brothers' offense. The lawgiver's move was from their wrongdoing to matters involving human-animal contact that arise normally in an Israelite's life—killing an animal,

domestic or wild, with a view to eating it and happening upon a dead animal—and then to rules about such ordinary real-life matters. We have the typical move from the exceptional to the unremarkable. The rationale for the rules is not some mystical, religious notion that is rooted in Israel's cult, but derives from remembrance of the brothers' deception with an animal's blood and the ensuing concern that later Israelites do not do anything comparable with what their first ancestors did.

The penalty for eating blood is that the offender is cut off from his people (Lev 17:10). It mirrors the brothers' own offense. They caused Joseph to be removed from his family, the first family of Israel.

JACOB'S COMMENT ON JOSEPH'S FATE (GEN 49:9)

There is a precedent for the lawgiver's thinking in Leviticus 17. The Genesis narrator had already looked keenly at the brothers' lie about the action of the wild beast. He reported how Jacob at the end of his life gathers his sons around him and sarcastically addresses Judah, whom he rightly identifies as the ringleader in the disposal of Joseph (Gen 37:26, 27). In usurping his favored position in the family, Judah was, Jacob claims, the wild creature, a lion, which "from the prey of my son . . . went up" (Gen 49:9).[23] It was not, then, the wild beast that consumed Joseph, and certainly not the goat whose blood they used after slaughtering it. Rather, for Jacob, what occurred, he later realized, was a human act that he judged to be comparable with what a wild beast does when coming upon its prey. In fact, what Jacob actually says to Judah presents a precise precursor of what the law points to—the image of a human being behaving as a wild beast consuming its prey. The metaphor in Jacob's remarks serves as a reminder of the misdeed in the story.[24] The law about the blood taboo functions similarly.

The law's recipients are meant to puzzle over why in ordinary life Israelites and sojourners within the nation should ever be told to refrain from consuming raw flesh with blood. The injunction should trigger the association with the eating habits of wild beasts and hence bewilderment as to why Moses thought that Israelites and resident aliens might behave like them. Knowing of no such temptation on their part, they are then set on a course of recalling some extraordinary occasion that may be pertinent to comprehending the rule's import. In that the laws ostensibly come from the distant past, from the legendary lawgiver Moses, they are designed to engage the recipients' historical memory. The first time ever that the topic comes up in a significant way of one creature's consuming the flesh and blood of another is in the dramatic tale about Joseph's fate when he and his brothers are but aliens in the land that is later to become Israel. Gen 37:1 explicitly refers to their sojourning status. The

brothers' offense, in turn, raises the fundamental issue of the relationship between animals and humans, one that the primeval history in Gen 9:1–6 addresses. The inclusion of the alien in the rule becomes even more intelligible on account of the fact that the Flood narrative is universal in scope.

The rules about eating animals but avoiding the ingestion of their blood are solely concerned with shaping the cultural identity of the Israelites. They have an ethical aspect only insofar as situations arise in which the Israelites might eat meat. By making the Israelites think about the animal blood, the lawgiver was able to have them focus on their first forebears and their wrongful conduct, and on the nature of the created order as established by the deity after the Flood. It is not that later Israelites are likely to repeat what the brothers did with the blood, but rather that they must always be mindful of the fact that what these brothers did constituted one of the most pivotal moments in their history.

BLOOD AND ATONEMENT

A major piece of evidence that the rule about not eating flesh with blood derives from reflection on the Joseph story is the decidedly puzzling inclusion of an instruction about using animal blood to atone for misdeeds. Why should the issue of expiation come up in a context concerned with the quite different issue of eating flesh that has blood in it?[25] I submit that just as the incident with the goat inspired the lawgiver to set out the ritual about the Day of Atonement in Leviticus 16, so the same incident inspired the concern with atonement in Lev 17:11. Moreover, both the issue of atonement and that of ingesting flesh come from reflection on two inextricably linked aspects of the incident with the goat.

The brothers are set on killing the kidnapped Joseph. Judah, however, says to them, "What profit is it if we slay our brother, and cover [*kasah*] his blood?" (Gen 37:26).[26] Presumably, the reason they would cover it is to wipe out any record of the misdeed so that it does not come back to haunt them. It is a wish for tranquillity from the direction, not of detection by earthly authorities, but of vengeance by spiritual ones. We are into the topic of the need for atonement for grave wrongdoing, the recognition that relief for engaging in it requires taking stock of spiritual and psychological forces. Judah's view that such relief might be forthcoming by covering Joseph's blood is plainly repellent from the point of view of the priests, the custodians of conscience.

Changing their minds at Judah's instigation about killing Joseph, the brothers proceed to cover up his fate—and their transgression—by taking the goat's life instead of his. Thereby they escape responsibility, and hence dire punishment, for their

heinous offense against Joseph.[27] In other words, by sacrificing a goat of their flock they are able to use its blood to conceal their wrongdoing. This use of animal blood to cover up an offense, in a context concerned with an animal's supposed consumption of human flesh and blood, triggers the lawgiver's statement about proper atoning for wrongdoing (Lev 17:11). The brothers' misdeed consequently accounts for the unexpected conjunction in the law of the two topics, bestial appetite on the part of the human and expiating human wrongdoing.

The law requires the use of an animal's blood in a prescribed, supervised manner for the deity to be willing to blot out the guilt of an atrocious deed such as the one that the brothers committed.[28] Just as the brothers' lie about a wild creature's consumption of a human's flesh and blood prompted the lawgiver to set down the reverse example of a human's consuming an animal's flesh and blood, so we find a comparable reversal. The first Israelites' wrongful use of blood to cover up their offense prompted the lawgiver to set out a rule on how future generations of Israelites can use blood at an altar for legitimate expiatory purposes.

The link in the law between *nepeš*, "life," and *dam*, "blood," reflects a feature of the story. Reuben's concern in Gen 37:21, 22 that his brothers do not "strike [Joseph] to the life [*nepeš*]," that they do not "shed blood [*dam*]," presupposes a connection between *nepeš* and *dam*.[29] The lawgiver has extracted from an extraordinary event a significant value, even if the matter in the relevant narrative comes up on account of wrongdoing.[30]

In commenting on the use of blood in the Leviticus rule, Hartley states: "The required manipulation of blood teaches that guilt is not automatically removed; it can be removed only by the participation of the guilty person in the way prescribed by Yahweh."[31] If we apply this comment to the brothers' manipulation of the goat's blood in dealing with Joseph, it would be most apt. Their use of the animal blood does not absolve them of their transgression, even if the attempt proves successful at the time. As the story develops, the deity is the one who causes their offense to be brought into the open and eventually set aside. Because Moses gives the laws for a future time, the rule is intended to achieve the same result among later sons of Israel for some wrong comparable with the brothers' offense.

The text in Lev 17:11 about atonement by blood has, then, to be read in light of the brothers' action. The slaughter of the goat serves not just as a substitution for the death of Joseph. The ruse allows the brothers to escape the consequence, death, which earthly justice might otherwise impose for their crime of kidnapping. In the eyes of heaven, however, they remain guilty and consequently face a reckoning from that quarter. In the rule, the death of the animal serves to save alive the one offering its blood. Milgrom is correct, if for the wrong reason, to argue that in Lev 17:11 the

Israelite faces death at the hands of God, and only the blood of the slaughtered animal will serve to ransom his life.[32] In other words, the rule is dealing with an offense as grave as the one the brothers committed, not a lesser one.

A further aspect of the brothers' misdeed is that they make use of the obvious fact that an animal's blood looks the same as human blood. That is why they dip Joseph's coat in the goat's blood so that it will appear to be his. The blood, however, comes from the slaughtered animal and, while it is indeed dead, the human being Joseph is not, contrary to the brothers' ruse in suggesting otherwise. Animal blood saves a human life. Equally important, the brothers remain alive but come under divine judgment. In the rule, in pursuit of its notion of expiation, the interchangeability of animal and human blood turns out to be crucial—as is the animal's death and the human being's survival. Somehow "the animal's life has a value analogous to that of the supplicant's own life."[33] That was true in the deception carried out by the brothers. If the goat had not been killed to cover up their transgression, their father would have held them liable for Joseph's fate.[34] It is also true in the religious, *au fond* magical world of the priestly cult. Without the use of the animal's blood, the Israelite remains liable to divine judgment. Human beings and animals share blood in common, and the rule, like the brothers' action, exploits this fact.

Gen 9:1–6 is also pertinent to that part of the prohibition in Leviticus 17 against eating animal flesh that surprisingly brings in the topic of atonement. In the injunction in Gen 9:4 against eating animal flesh, an equation is made between blood and life, the injunction being followed by the one that requires the blood of beast or man for killing a person. The comparable injunction of Lev 17:10, 11 contains a statement linking blood to life: "For the life of the flesh is in the blood: and I have given it to you upon the altar to make an atonement for your souls: for it is the blood that maketh an atonement for the soul."

FROM THE TOPIC OF BLOOD TO THE TOPIC OF INCEST

In the laws set out in the book of Leviticus, the lawgiver moved from a rule prohibiting an Israelite or a sojourner from consuming an animal's blood (Lev 17:10–16) to a rule concerning incest, specifically, a son's uncovering a father's nakedness (Lev 18:7). On the face of it, and certainly if we consider the laws without regard to their relationship to the narratives, it is the strangest of transitions. Once we note, however, the relationship between law and narrative, the puzzling change of subject matter becomes intelligible because the rules serve as commentary on the narratives. The inspiration for this initial incest rule comes, I have previously argued,[35] from reflection on the incident involving Ham's looking upon the nakedness of his

father Noah (Gen 9:18–29). I would now point out that the latter story comes immediately after the story in which Noah and his family receive permission to eat the meat of an animal but, if they do so, they must refrain from eating its blood (Gen 9:1–17). As in Leviticus 17 and 18, we have in Genesis a transition from the latter concern about the flesh and blood of an animal to the concern about incestuous conduct.

Introducing the subject of incest, the lawgiver in Lev 18:3 specified national groups, the Egyptians, the Canaanites, and the Israelites, because, like the narrator of the Genesis material when moving to tell the history of the ancestors of Israel (Genesis 11), he too moves from global matters to national ones.

THE FLOOD STORY AND THE JOSEPH STORY

The two epics share other similarities. There is the catastrophe of the Flood in the one and the catastrophe of the famine in the other because of the failure of the harvests over a seven-year period. After the Flood is over, the deity promises that in the future he will guarantee "seedtime and harvest" (Gen 8:22). In each, a single human being, Noah in one, Joseph in the other, is favored above others, and in the coming catastrophe each saves his own family and the larger community (the future world in the Noah story and the future Israel in the Joseph story).

A dominant feature of each epic is the narrator's attempt to delineate how the deity comes to terms with wrongdoing that is much the same in each account. In Genesis 6–9, the evils are violence on the earth involving both animals and humans (all flesh; Gen 6:12), and wrongful sexual relations between beings of different status, the sons of God having intercourse with the daughters of men. At this primeval time, the deity resolves the problem of human sinfulness by accepting that he will have to live with the reality of it in the future. Only he will not be so directly involved in dealing with it. To this end, in regard to the issue of future violence, he sets out ordinances that human beings will themselves administer.

In Genesis 37–50, there is again the evil of violence, this time on the part of the brothers against Joseph and against an animal. There is also sexual wrongdoing, again between persons of different status, Potiphar's wife, who is a free, married woman, and the slave Joseph.[36] At this point in time, the deity resolves the problem between Joseph and his brothers by so arranging matters that Joseph is eventually led to forgive his brothers for their iniquitous conduct. There are, moreover, rules set out in Leviticus 17 that address aspects of the story (which is itself a masterly exploration of different facets of wrongdoing). Unlike the rules that follow the Flood story, those in Leviticus 17 are not appended immediately after the Joseph story.[37]

Most interesting, however, is that they also link up directly with those from the aftermath of the Flood story.

What to make of all these parallels? Plainly, any attempt to sketch primeval history involves reading back into it experiences from later history, and on this count it would not be surprising to find at least broad features of the Joseph story exerting some influence on the Flood story.[38] On the basis of such parallels, however, no solid claim can be made that one story has actually influenced the other, although sometimes we come upon a quite remarkable correspondence. Thus in the Flood story God has to reckon with man's imagination being evil from his youth (Gen 8:21), and in the Joseph story there is a prime example of a youthful, particularly imaginative act of evil (the use of the goat's blood) within the later house of Jacob. All that can be safely said is that because the same hand is detectable in both stories, there may have been some cross-fertilization of motifs and ideas.

CHAPTER SIX

Mourning and Marriage Rules for Priests

Leviticus 21

He who forbids not sin when in control commands it.

A rule in Lev 21:1–6 restricts to close family members those persons a priest can mourn in a formal, ritualized manner. A long-recognized, very puzzling element presents itself. The rule excludes a wife from the circle of intimates. Her husband is not to engage in any outward lamentation for her passing. The following rule in Lev 21:7, 8, which is not separated from the previous one, restricts in turn a priest from taking a certain type of woman as a wife. The marital restrictions have given rise to views about a special link between sexuality and priests that has had considerable impact down through the centuries. I shall offer a solution to the puzzle in the opening rule of Leviticus 21 about the exclusion from mourning of a wife (and a married sister) and counter claims made about biblical attitudes to sexuality that have been based on a reading of the rule about the kinds of wives available to priests.

Rules	*Narratives*
Lev 21:1–15. The rules restrict priests on which persons they can mourn and which women they can marry.	Judges 19, 1 Samuel 2–4, Leviticus 10. Judges and Samuel relate interconnected episodes about a priest mourning a wife who had been promiscuous, and about sons of the high priest who die on account of their promiscuous conduct. The lawgiver looked back to the first time when a high

priest, Aaron, was not permitted to mourn his two sons who offended against the wilderness sanctuary.

Lev 21:16–24. A rule prohibits a physically blemished priest from serving in the sanctuary but permits him sacred dues.

I Samuel 2, 4. The physically disabled high priest, Eli, hears of the deaths of his two sacrilegious sons. No future member of his family is permitted to serve as a priest but will nonetheless plead to be given sacred dues.

A Levite cuts up his dead wife's body and sends parts of it around Israelite territory (Judges 19). *The rule, in turn, permits a priest to mourn close family relatives but not his dead wife* (Lev 21:1–6)

The priests are not to defile themselves for the dead but there are exceptions. The rule in Lev 21:1–6 reads:

> And Yahweh said unto Moses, Speak unto the priests the sons of Aaron, and say unto them, There shall none be defiled for the dead among his people: but for his kin, that is near unto him, that is, for his mother, and for his father, and for his son, and for his daughter, and for his brother, and for his sister a virgin, that is nigh unto him, which hath had no husband; for her may he be defiled. He shall not defile himself as a husband among his peoples and so profane himself. They shall not make baldness upon their head, neither shall they shave off the corner of their beard, nor make any cuttings in their flesh. They shall be holy unto their God, and not profane the name of their God: for the offerings of Yahweh made by fire, and the bread of their God, they do offer: therefore they shall be holy.

The rule presents an obvious problem. Priests must not defile themselves on account of the dead, that is, make baldness upon their head, shave off the corner of their beard, and cut their flesh. Exceptions apply, however. He—the rule switches from the plural to the singular—can defile himself for kin close to him, for his parents, for his children, for his brother, and for his sister so long as she has not been married. Remarkably, his wife finds no place in the list of exceptions. J. E. Hartley states bluntly: "The absence of any mention of a priest's wife is amazing."

Hartley's solution is to proceed to deny the existence of the problem by claiming that a wife is included in the term *šer* in verse 2, "kin, relative."[1] But verse 4 explicitly states that as a husband he shall not defile himself. To be sure, the meaning of this particular verse has caused commentators great difficulties, so much so that the

expression in it, *ba'al be'ammaw*, literally "a husband among his peoples [tribes]," is said to be the most difficult one in the entire book of Leviticus.[2] Baruch Levine provides one example of an attempt to give a different meaning to the phrase so that it no longer solely refers to the wife of a priest.[3] For Levine, it also includes his kin acquired through marriage—literally, a husband among his kin, that is, his wife and her relatives. A priest in the role of a husband is not permitted to attend the burial of his wife because a man's wife, like her kin, is not a consanguineous relative but an affinal one. She is not family, but kin. This explanation presents two problems: translating the plural *'ammaw* as "his kin"; and claiming a priest cannot mourn his sister should she be married, though she remains a consanguineous relative. Two other common but equally unsatisfactory translations that similarly weaken the sense are: "nor shall he make himself unclean for any married woman among his father's kin" (from the New English Bible), and "related to him by marriage" (from the New International Version). Once we observe the inspiration for the expression, the meaning turns out to be quite straightforward and has nothing to do with kin in the sense used by critics and translators.

THE LEVITE AND HIS CONCUBINE

The rule, I submit, has been formulated with a specific tradition in focus: the incident in Judges 19 involving a single Levite whose spouse turns to prostitution. Why has the lawgiver gone to this tradition? In his previous rule (Lev 20:27) about those who make contact with the dead, dealings with familiar spirits and mediums, his concern was unacceptable actions on behalf of the dead. What spurred his interest was Tamar's story in Genesis 38. On behalf of her dead husband she acts the harlot, and a sacred one at that, for the term used of her describes her as a temple priestess of the Canaanite cult. Her intent is to raise a child for him by his father, Judah. Her specific action on behalf of her dead half-Israelite, half-Canaanite husband prompts the lawgiver to prohibit the more familiar forms of Canaanite dealings with the dead. What transpires in the first Israelite family, among the twelve sons of Israel, is viewed as a harbinger of untoward developments involving familiar spirits and mediums.[4] In his next rule (Lev 21:1–6), the one under scrutiny, the lawgiver turns to Judges 19, to a tradition in a later generation that also concerns an unacceptable action on behalf of the dead. Only in this instance, the prohibition involves a typical but not surprising reversal, a husband acts on behalf of his dead wife.

The grisly story in Judges 19 is so bizarre that modern readers will find it incomprehensible. Its intent, however, is to illustrate the supposed chaos and anarchy that prevail when Israel lacked the institution of kingship. "In those days there was no

king in Israel: every man did that which was right in his own eyes" is the comment by the biblical narrator at the conclusion to the episode about the Levite's wife and its consequences (Jud 21:25; cf. 19:1). This comment highlights the need for rules and almost makes it apparent that some of these rules should be derived from the incidents in focus. In any event, the tale is about a woman who plays the harlot against her husband, a Levite, a priest of the Israelite cult. She leaves him and returns to her father's home. Some months go by and, despite his wife's egregious behavior, the Levite decides to take up with her again. Her father receives him well and for many nights detains him by plying him with food and drink. Eventually the priest leaves with his wife and a servant, and the three of them settle for the night in the city of Gibeah. Someone there who used to live in the Levite's own part of Israel provides hospitality to them. The men of Gibeah are Benjaminites who are described as "sons of Belial," a phrase signifying deviance and lawlessness. They demand sexual intercourse with the Levite. To protect his male guest, the host offers to the gang his virgin daughter and the Levite's wife. The hoodlums are not interested initially but, for whatever reason, when the Levite does give over his wife to them, they accept her and sexually abuse her all night long.

In the morning when the Levite starts out to continue his journey, he finds his wife lying motionless at the threshold of the door. Addressing her, he tells her that they should go on their way, but there is no response from her for she is dead. He then lifts her onto his donkey and goes to his own home. There he cuts up her corpse into twelve pieces and sends them around the twelve tribes of Israel to tell them about the barbaric treatment of his wife by the men of the tribe of Benjamin. The other tribes are duly outraged and they convene an assembly at which they decide to exact vengeance and, further, to deny from their own numbers future wives for the Benjaminites. A drawn-out battle ensues with the outcome that all of the Benjaminites, save six hundred men, are slaughtered.

A sense of national unity, however, asserts itself, and there is regret that one of the twelve tribes of Israel will disappear if these surviving Benjaminite men do not obtain wives. A decision is then made that the latter can acquire virgin daughters from the city of Jabesh-gilead, because that city failed to send men to the original assembly that decided the fate of the Benjaminites. After the male inhabitants of Jabesh-gilead and their spouses (and children) are slaughtered, four hundred young virgins are given to the Benjaminites. More virgins are needed and the men of Benjamin acquire them by going to an annual vintage festival at Shiloh and there, seizing the girls while they are dancing, carry them off as wives.

The story, then, is about a priest who, according to the Massoretic text (MT), is on his way to serve in a sanctuary when the horrific event ensues (Judg 19:18). The

law, in turn, links defilement that is caused by a priest's involvement with the dead to the priest's fitness for serving in the sanctuary: "They [the priests] shall be holy unto their God . . . for the offerings of Yahweh made by fire, and the bread of their God, they do offer" (Lev 21:6). A succession of laws also takes up aspects of the priestly vocation (Leviticus 21).

The harlotry of the Levite's wife has aroused skepticism from ancient times. Most modern versions of the Bible accept the Septuagint reading that she left her husband because she was angry with him. Rejected is the MT reading that she played the harlot against him and left him. We should stay with the text of the MT.[5] The translation of the Septuagint may be an attempt to avoid the shocking nature of her offense in the MT.[6] More persuasively, support for the MT reading comes from noting that the story, like the others in the book of Judges, illustrates the lawlessness and anarchy of the times. When, moreover, she dies the victim of sexual abuse by many men, the narrative, in typical biblical fashion, conveys *pars pro pari* the nature of her misdeed, sexual relations with many different male partners. Her end is heaven's way of punishing her for her sexual misconduct when married to the Levite, misconduct for which she had not been punished when it occurred.[7]

The Levite's action of transporting her divided corpse throughout the land of Israel means that he presents himself among all his kindred Israelites (not just among his own kin) as a husband defiling himself with his wife's dead body. His action not only proclaims the outrage done to his wife but is also an act of mourning. The fact that he is the husband of this woman is no ordinary fact in the story but a central feature, as the sequel about the denial of wives to the perpetrators of the crime brings out (Judg 21:1). The distinguishing quality of the Benjaminite males who survive the onslaught against their tribe is the bar on them becoming husbands in Israel because of their culpability for the death of the wife of a Levite. The mourning law in Lev 21:1–6 relates back to the appalling incident involving the wife's corpse. Its import is, I submit, that no later Levitical priest must be associated with the uncleanness of this early member of the priesthood and, consequently, he has to refrain from mourning his dead wife.

The law is an impressive example of how an odd reference in it evokes, by a precise use of language, an event in the history of the nation. In ordinary settled times, Moses legislates, when the wife of an Israelite priest dies, he should not tarnish himself by contact with her corpse because it would serve as a reminder of a deeply defiling incident in the history of the nation. The fact that, in the law, the priest's sympathetic contact with those dead relatives he can mourn is of the kind that involves cutting his own body makes all the more noteworthy the connection between such customary mourning practices and the Levite's action with his wife.[8] Normally al-

lowed to mourn an intimate by cutting himself, a priest does not participate in such permissible defilement when a wife dies because he must signal his freedom from uncleanness of the kind that dramatically attached to his ancestor living at the time of the Judges. The law thus calls for an act of omission that, having regard to the scar of national history, constitutes a counterexample to the one in that history. For the recipients of the rule, the odd requirement that a priest should not mourn his wife invites the question, Why ever should he not? The answer involves recall of the historical incident. The exclusion of the wife from the rule is based not on ritual considerations or on grounds of blood-relatedness, but on history.

PROHIBITION AGAINST MOURNING A MARRIED SISTER

The exclusion of a married sister from the list of those whom the priest is permitted to mourn can be similarly explained. A Levitical priest will have married her, a standard (if not necessarily required) intertribal union among priestly families (Exod 2:1; cf. Lev 21:14), and in the event of her death the ban, applying to her husband, carries over to her brother. He can mourn his sister so long as she is not married, but the unnecessary language that she is a virgin and that she has had no husband seems odd. The double description, however, is important in light of the ancestral Levite and his wife/harlot. When a priest's wife or married sister, also a priest's wife, dies, he must do nothing that associates him with this Levite. If a priest's sister has a husband, she falls into the taboo category on the sole basis of the husband-wife incident in Judges 19. This part of the rule also incorporates the historical scar, and the reference to the husband is important in pointing to it. Mention that she is a virgin is insufficient to achieve the association with the story.[9]

Although the expression *ba'al be'ammaw* seems an odd one, its literal meaning, "a husband among his peoples [tribes]," is remarkably apt. It recalls the Levitical husband in Judges when, throughout the entire territory of Israel, he proclaims among his fellow Israelites the Benjaminites' outrage. The plural form *'ammim* designates the units that constitute the people of Israel. The term *'am* can refer to a smaller unit in the sense of those who make up the various inhabitants of a locality, or to a smaller unit in the sense of a single tribe with the plural often referring to the tribes of Israel.[10] A central feature of the story is the concern both with the totality of Israel and its constituent parts.

The rule switches from a reference to a priest to a prohibition that applies to all priests, from the third-person singular to the third-person plural (vv. 4 and 5). The change in number may reflect the move from the focus on the single Levite in Judges 19 to Moses's general rule for all priests.

A Levite has problems with his promiscuous wife (Judges 19). *The rule, in turn, concerns marital restrictions on priests by taking account of a woman's sexual history* (Lev 21:7, 8).

The next, related rule reads: "They [the priests] shall not take a wife that is a whore, or profane; neither shall they take a woman put away from her husband: for he is holy unto his God. Thou shalt sanctify him therefore; for he offereth the bread of thy God: he shall be holy unto thee: for I Yahweh, which sanctify you, am holy."

Why should the lawgiver, bewilderingly it would seem, switch from the topic of a priest's becoming defiled from contact with a corpse to the kind of woman he cannot marry, especially the three listed—a prostitute, a "profane" woman, and a divorced woman?[11] The Judges tradition, I suggest, accounts for the odd juxtaposition of topics in the two rules, mourning the dead and the status of a priest's wife. The Levite's situation with his spouse sharply raises the issue of a wife who is a problem to her husband. This priest's spouse was promiscuous. The rule's formulation, in turn, is negative; it is about the kind of woman a priest cannot marry on account of her previous sexual experience. Further, the rule is remarkable in that it states that a priest has not to marry a harlot. In the ordinary course of events, it seems an unlikely choice for a priest to make, or anyone for that matter, and we might well wonder why a lawgiver pays the possibility any attention. Hartley recognizes the problem when he claims that a prohibition against marrying a harlot would be obvious; hence there would be no need to state it. So he weakens the sense of the rule when he states "the strong term [harlot] applies here to a woman who had lost her virginity without specifying the frequency."[12] Such a curious rationalization is not called for.

The Levite's wife played the harlot against him. The story does not expand on why she did so, nor does it comment on what motivated the Levite to choose to take up with her again. No doubt the entire matter comes under the judgment that everyone at that time did what was right in his or her own eyes. The anarchy communicated in the story is in many respects the opposite of what would occur (it is thought)[13] under the orderly rule of a king. A priest's wife becomes a harlot. He does not cast her out, as he should, but takes her back. To satisfy sexual appetite, the debased men of Gibeah demand the man, not the woman. The priest sends his wife to be raped and does not protect her. After she dies, he cuts up her body but does not make marks on his own, as is the standard custom for a close relative.

Alert to the disorder in the story, the lawgiver laid down rules that will contribute toward some order in Israelite society, and he fashioned this order by reacting to the contents of the story. In his rule about priestly marriages, he thought of the odd situation in which a priest might marry a harlot. While a law can lay down such a pro-

hibition, it cannot legislate for the possibility that a priest's wife might become a harlot, as happened with the Levite. (The law of adultery would apply in the event of a wife's promiscuous conduct.) After a lapse of time he even took back his promiscuous wife, in a way renovating his marriage.

The priest in the rule is not to marry a woman that is "profane." Jacob Milgrom reckons that the term in the rule refers to a raped woman.[14] He may be correct because the description reflects the narrative. The Levite's wife ended up raped (and dead) from her experience. The rule would then have in focus less exceptional matters that can be legislated for, and which a priest can take into account before, not after, marrying. Thus the lawgiver might think of a woman who has been raped before marriage.

I am inclined to think, however, that the rule's denial to a priest of a woman who is "profane" may represent a judgment on the Levite in Judges for taking his wife back after her promiscuous conduct. (He also was prepared to have her back after the Benjaminites had raped her.) The lawgiver might then have switched from the Levite's situation to the more manageable one where a priest is considering marriage. We might think of a woman who, before marriage, had been a harlot but had quit this kind of life. Recall that the woman in Judges 19 presumably quits harlotry when she returns to her father's house, her husband taking up with her again. A priest is nonetheless not permitted to marry a woman who has given up her dissolute life.

The priest is also not to marry a woman that "has been cast out from her husband," "divorced" as most translations have it (probably misleadingly). The prohibition carried over into later Judaism, also into the Christian church for its clergy, and into royal (Christian) marriages. In the narrative, the offending Levite's wife left the marital home, on her initiative, and not at the summary command of her husband. It is a further illustration of the disorderly character of the times. In the extraordinary setup in the story, then, the woman leaves her husband and he eventually takes her back. Her adulteries are entirely overlooked by him.[15] The lawgiver, contemplating in light of this particular aspect of the narrative a type of woman a priest cannot marry, thought of a woman cast out by her husband for, presumably, sexual misconduct.[16] His judgment is that such a woman, who is probably from a priestly family and had been married to a priest, cannot become another priest's wife.

The sequel to the story about the Levite's spouse concerns restrictions on wives for the tribe of Benjamin. This aspect of the saga is further indication that the tradition in Judges influenced the lawgiver in his choice of topics. As in the law, the issue in the story is about acquiring a wife, not about what takes place after a marriage. The other tribes refuse to marry their daughters to those Benjaminites who had survived the vengeance taken against the tribe for its treatment of the Levite's concu-

bine. (We might note again the juxtaposition of the topics of marriage and the dead.) In the end, one way in which the Benjaminites are allowed to obtain wives is by means of an overly formalistic interpretation of the marital oath that the other tribes had sworn. The oath reads, "There shall not any of us give his daughter unto Benjamin to wife" (Judg 21:1, 7, 18). The Benjaminites are encouraged to "seize" the women (at the vintage festival), an action not quite the same as the women being given to the men (Judg 21:21). In any event, the issue in the narrative is about restrictions on what kinds of wives a certain group of Israelites, the tribe of Benjamin, can acquire. The law, in turn, is about restrictions on what kinds of wives another group of Israelites, the priests, the tribe of Levi, can acquire.[17]

Once we relate the law to its influencing narrative, we can reject commentators' claims about the mystical connection that supposedly prevails between a priest and his sexuality. There is no need to suggest, as Karl Elliger does, that special powers flow to a priest from intercourse with an untouched woman; or to accept Erhard Gerstenberger's claim that "sexual intercourse between the woman and another man conceals dangers affecting the priest's execution of his office. It is as if the woman were infected with an alien power, one possibly incompatible with the holiness of Yahweh's temple."[18] Such theorizing arises because the rules are read on their own terms without awareness of the specific motivation inspiring them. Despite appearances, the contents of the rules do not support notions of the sacred, mystical power of sexual relations, a power that, depending on its source, can compete with or complement a priest's sacred status.

The father of the promiscuous Levite's wife is probably a Levite also (Judges 19). *The rule, in turn, concerns the harlotry of a priest's daughter* (Lev 21:9).

The rule in Lev 21:9 reads: "And the daughter of any priest, if she profane herself by playing the harlot, she profaneth her father: she shall be burnt with fire."

Ordinarily, a Levite will marry within his tribe, for example, as in Exod 2:1, "And there went a man [father of Moses] of the house of Levi, and took to wife a daughter of Levi." The high priest in the rule following the present one can marry only the daughter of a priest (Lev 21:14). Lev 22:12 has a provision that a priest's daughter who is married to a nonpriest is not eligible to eat sacred food. An implication is that, again, ordinarily she would if married to a Levite. The father of the Levite's concubine in Judg 19:1 is presumably himself a Levite. His place of residence is Bethlehem-judah, and we might compare him to the "young man of Bethlehem-judah of the family of Judah, who was a Levite" in Judg 17:7. Even if he were not a Levite, a lawgiver is more than likely to focus on a standard intertribal union when addressing the issue of sexuality within priestly families. In the story in Judges 19, the father

of the Levite's wife is a prominent figure. We are told of his delight when his daughter's husband comes to take her back as a wife. We also learn of his willingness to ply his son-in-law with food and drink and to have him enjoy himself with his wife at his home in Bethlehem-judah. Reflection on this hedonistic father would readily remind the lawgiver of the daughter's own pursuit of pleasure. In opposition to the loose ways depicted in Judges, a rule about the harlotry of a priest's daughter readily follows.

One of the two sons of Eli was expected to succeed him as high priest but, because of their promiscuous conduct, ruin befell the family (1 Samuel 2–4). *The rules, in turn, place mourning and marital restrictions on a high priest* (Lev 21:10–15, Leviticus 10).

The rule in Lev 21:10–15 reads:

> And he that is the high priest among his brethren, upon whose head the anointing oil was poured, and that is consecrated to put on the garments, shall not uncover his head, nor rend his clothes. Neither shall he go in to any dead body, nor defile himself for his father, or for his mother. Neither shall he go out of the sanctuary of his God; for the crown of the anointing oil of his God is upon him: I am Yahweh. And he shall take a wife in her virginity. A widow, or a divorced woman, or profane, or an harlot, these shall he not take: but he shall take a virgin of his own people to wife. Neither shall he profane his seed among his people: for I Yahweh do sanctify him.

Insight into this rule, which also oddly combines the topics of mourning and priestly sexuality, is forthcoming if we assume that the lawgiver has under review the tradition about damnable priestly sexual conduct in the generation of Eli's sons, Hophni and Phinehas (1 Samuel 2–4). Theirs is the next generation of priests we hear about after the Levite of Judges 19. Issues similar to those that arise in the story in Judges 19 come up. The sexual offenses in question concern the sons of the high priest, Eli, and they die because of them. We thus switch from a focus on the sexual misconduct of the daughter of a priest in the rule in Lev 21:9 to similar misconduct on the part of the sons of a high priest in the narrative in 1 Samuel 2–4, the narrative that will prove pertinent to the rule in Lev 21:10–15.

Further evidence in support of this switch is that "sons of Belial," the men of the Benjaminite city of Gibeah, sexually abuse the Levite's wife (Judg 19:22). The similarly described "sons of Belial," Hophni and Phinehas, abuse the women who assemble at the door of the Shiloh sanctuary in a manner that at least invites comparison with the abuse of the Levite's wife (1 Sam 2:12, 22).[19] A priest's wife and a priest's daughter should be morally upright, but in Judges 19 nonpriests profane the Levite's wife both at her bidding and later at his. Likewise, the priests themselves should be

proper in their conduct, but Hophni and Phinehas profane themselves by lying with the women at the sanctuary (1 Samuel 2). From a priest's daughter who prostitutes herself, the lawgiver turns to the story in 1 Samuel 2 of the sons of a high priest who fornicate. The preceding rule about the daughter focuses on the effect of the offspring's offense on the father: "By playing the harlot, she profaneth her father" (Lev 21:9). In 1 Samuel 2, Hophni and Phinehas are thought of as also profaning their father.

In his two rules in Lev 21:9–15, the lawgiver has switched from the death of a priest's daughter, because of her sexual misconduct, to a ban on a high priest from exhibiting any external sign of mourning, even for intimate members of his family. The lawgiver then turned again to the topic of priestly sexuality. The explanation for the initial focus on mourning was his move from the death of the Levite's wife, who is presumably also a priest's daughter, to the deaths of the sons of Eli on account of, among other offenses, sexual misconduct. Eli is high priest at the sanctuary in Shiloh, the one to which the Levite of Judges 19 was journeying.[20] Eli's sons commit fornication at that sanctuary, and for their offense heaven visits death upon them. On hearing of their death and especially of the capture of the Ark, Eli too dies, not having mourned them (1 Sam 4:18). The rule prohibits a high priest from mourning any death, but, instead of a blanket statement on the matter, it formulates against his association with "any dead body . . . defiling himself for his father, or for his mother." Why did the lawgiver bother to specify family members, in particular a father and a mother, and, if he has focused on the deaths of Eli's sons, why did he cite parents and not sons?

AARON'S SONS

As he invariably does, the lawgiver turned to the first time the problem of the death of a family member of a high priest presented itself. That was the occasion involving the family of the first high priest ever, Aaron. An additional reason for the lawgiver to turn back to what happened in the first generation of priests is that, unlike Aaron, Eli dies before he has time to mourn the deaths of his sons.

Aaron's two sons, Nadab and Abihu, die for their offense of offering strange fire at the sanctuary (Leviticus 10). Like the priest's daughter in the preceding rule in Lev 21:9 who plays the harlot, these sons of a priest also die by fire (Lev 10:2). The tradition about the incident explicitly states that Moses commands Aaron and his surviving sons not to uncover their heads or rend their clothes in dealing with the dead bodies of the offenders. The rule, in turn (Lev 21:10, 12), incorporates precisely these instructions for a high priest when he is confronted with the death of any member

of his family. It also incorporates the further instruction that he remain in the sanctuary on account of the fact that "the anointing oil of Yahweh" is upon him (Lev 10:7, 21:12). Although the rule deals with deaths not necessarily or even primarily of offending family members, its rationale appears nonetheless to be that it commemorates the scars in the early history of the priesthood. The rule has certainly been triggered by Aaron's situation.

Eli's and Aaron's sons die, but the rule singled out a father and a mother, not sons (or daughters). The explanation comes from noting the lawgiver's standard procedure of linking what he found in a tradition to a less unusual situation that may arise in the future. He cited parents because ordinarily they predecease sons and daughters, unlike the sons of Aaron and those of Eli, who die before their parents. In both stories, but especially in the one about Eli, the close tie between the high priestly parent and his sons is prominent ("And honorest thy [Eli's] sons above me [Yahweh]"; 1 Sam 2:29).

SEXUALITY AND THE HIGH PRIEST

The rule switches from the topic of a high priest's noninvolvement with the dead to the topic of certain marital restrictions that he has to observe. This move is surprising because a priest is not likely to become high priest until long after his marriage, which presumably occurs when he is a young adult. The reason is that the lawgiver has still to take up the wanton sexual conduct of Eli's sons. Neither of them is high priest at the time, but as the tradition brings out in 1 Sam 2:30–36, one of them would have succeeded to the office if matters had not taken the damnable turn they did.[21] Equally important, Eli is held liable for his sons' conduct ("His sons made themselves vile and he restrained them not"). His condoning it implies that he is just as guilty as if he had initiated it.

In the rule, a high priest must take a virgin as a wife. He cannot take a widow, a divorcee, a profaned woman, or a harlot. In focus, I suggest, is how the sons of Eli, one of whom is expected to replace his father, have sexual relations with the women who assemble at the door of the sanctuary in Shiloh (1 Sam 2:22; cf. Exod 38:8).[22] It is precisely among these women that we would expect to find the ones listed in the rule. A widow is added to the women in the preceding rule (in Lev 21:7, 8) that an ordinary priest cannot marry (a harlot, a profaned woman, and a divorcee). The addition of the widow may be owing to the fact that the influencing narratives differ (the Levite's promiscuous wife in Judges 19 in regard to Lev 21:7–9 and the fornication of the high priest's sons in regard to Lev 21:10–15). Given their straitened economic circumstances, widows may well have formed a sizable number among the

women who did menial jobs at the sanctuary. The story in Judges 19 contains no suggestion of widowhood.

The rule concludes with the puzzling statement that the high priest must not "profane his seed among his people." The lawgiver has probably thought of Eli, who fails to stop his sons' sexual activity and pays a heavy penalty for his failure (1 Sam 2:22, 29, 3:13).

The high priest Eli is physically blemished and any future member of his line is banned from priestly service because of the moral taint attaching to his priestly house. The descendant will beg to at least partake of a sanctuary's sacred dues (1 Samuel 4). *The rule, in turn, is about physical blemishes that render priests unfit for service in the sanctuary but does not preclude them from partaking of sacred dues* (Lev 21:16–24).

The rule in Lev 21:16–24 reads:

> And Yahweh spake unto Moses, saying, Speak unto Aaron, saying, Whosoever he be of thy seed in their generations that hath any blemish, let him not approach to offer the bread of his God. For whatsoever man he be that hath a blemish, he shall not approach: a blind man, or lame, or he that hath a flat nose, or any thing superfluous, Or a man that is brokenfooted, or brokenhanded, Or crookbackt, or a dwarf, or that hath a blemish in his eye, or be scurvy, or scabbed, or hath his stones broken; No man that hath a blemish of the seed of Aaron the priest shall come nigh to offer the offerings of Yahweh made by fire: he hath a blemish; he shall not come nigh to offer the bread of his God. He shall eat the bread of his God, both of the most holy, and of the holy. Only he shall not go in unto the vail, nor come nigh unto the altar, because he hath a blemish; that he profane not my sanctuaries: for I Yahweh do sanctify them. And Moses told it unto Aaron, and to his sons, and unto all the children of Israel.

The conduct of Eli's sons brings up the issue of fitness for the priesthood. The deity declares that, even though he established Aaron's priesthood for all time, in the case of Eli's family he has to bring to an end its role as an Aaronide priestly line (1 Sam 2:27–31). So there are instances, heinous and extreme in this example, when priests prove to be unfit for service. The faults at issue are the manifest moral deficiencies of this particular family of priests. A twofold question is why would the lawgiver go on to judge that certain *physical* blemishes render a priest unfit for serving at the sanctuary, yet not disqualify him from eating the sacred dues that come from the worshipers at it?

ELI'S PHYSICAL CONDITION

Judgment has already been made by the lawgiver that a priest who has a self-inflicted bodily blemish on account of his mourning a dead relative becomes defiled (Lev 21:3). He would presumably be excluded from serving at the sanctuary until such time as the blemish disappeared. In the rule in Lev 21:16–24, other more naturally occurring and more permanent blemishes come into reckoning, none of them being specifically linked to mourning the dead. What, then, has triggered this particular topic?

The clue comes from the aftermath of Eli's learning that members of his family are no longer fit to be priests. The dramatic evidence that the priesthood has been taken from them comes in the form of the loss in battle to the Philistines of the Ark of the Covenant and the accompanying deaths of Eli's two sons (1 Sam 4:17, 18). Eli learns about the debacle when, sitting by the wayside, he awaited news of the Ark's forced removal from the sanctuary at Shiloh. He dies at the very moment when he hears the news, and his physically impaired state contributes to his death. On account of his failure to control his sons' misconduct, the narrator of 1 Samuel 4 construes Eli's death as justifying the removal of his line from the priesthood.

We have in Lev 21:10–24 and in 1 Samuel 4 the same sequence of topics, a high priest experiencing the death of a close family member and a priest exhibiting a physical blemish. The common factor in moving from the law about a high priest (Lev 21:10–15) not permitted to mourn a close relative in the customary way to the law about priests with physical blemishes (Lev 21:16–24) is the lawgiver's focus on the disabled high priest Eli.

Much attention is paid to Eli's physical condition in 1 Samuel 4. He is old and blind (1 Sam 4:15). The narrator goes on to tell how a messenger conveys the news about the fate of Eli's sons and the Ark. He then records, "And it came to pass, when he [the messenger] made mention of the ark of God, that he [Eli] fell from off the seat backward by the side of the gate, and his neck brake, and he died: for he was an old man and heavy" (1 Sam 4:18). It is tempting to see Eli's physical problems in light of his previous life, as external signs of his flawed internal state. His blindness might relate to the fact that he observes the corruption of his sons but fails to do anything about it. His heaviness, in turn, might relate to the fact that he and his family make themselves "fat with the chiefest of all the offerings of Israel my people" (1 Sam 2:29).

The blemishes cited in the rule probably do not, however, reflect corresponding moral blemishes.[23] What has triggered the topic is the focus on Eli's physical state and the fact that it comes up in a context of fitness for the priestly vocation. The law-

giver presumably knew of existing rules about physical blemishes that disqualified someone from priestly service. The extreme situation in the tradition has brought up the less dramatic topic. Aside from the commonality of subject matter (unfitness for priestly service and a priest's physical condition), two further pieces of evidence suggest a connection between law and narrative.

First is the fact that the list of blemishes in the rule begins with blindness and lameness. There is no obvious reason why the list should start with blindness and then, having done so, proceed to lameness. As it happens, the narrator mentions first Eli's blindness and then presents a picture of him unable to stand because of his physical condition. The implication is that he can barely walk. The lameness cited in the rule may come from this aspect of the narrative. Suggestive too that Eli's physical condition inspired some aspects of the handicaps listed in the rule is his broken neck. The list includes other broken limbs, foot and hand, disabilities that will not, unlike a broken neck, cause death. Again, but less persuasive, the fact that the rule cites crushed testes, with consequent infertility, may link up with the fate that befell Eli's immediate family. Its demise is a major feature of the narrative (1 Sam 2:31–34).[24]

Second, those in the rule who are physically disfigured in some way may nontheless eat the sacred dues. In the narrative, in the same context in which Eli's physical problems and the issue of the fitness of his family for the priesthood are raised, there is comment about how future members of it will appeal to be admitted to a priest's office so that they can obtain food (1 Sam 2:36). There is, then, in the narrative as in the law, a distinction made between unfit priests and priests nonetheless having a claim upon food available at the sanctuary.

The concern of the rule is "He shall eat the bread of his God, both of the most holy, and of the holy. Only he shall not go in unto the vail, nor come nigh unto the altar, because he hath a blemish; that he profane not my sanctuaries: for I Yahweh do sanctify them" (Lev 21:22, 23). The concern, that is, is to keep the blemished priest from approaching the Ark, which resides in the inner part of the sanctuary (Lev 16:2). The link between Eli's blemished state and the fearful nature of the Ark is again relevant. The reference to a number of sanctuaries will reflect the fact that the Ark resided at the Shiloh sanctuary and eventually ended up in the Jerusalem sanctuary (2 Samuel 6).

Read against the idiosyncratic character of a particular incident, a rule takes on a different complexion from the one that might suggest itself if it is read on its own terms. Lacking awareness of the link to the special features of a story, critics often opt for what can be loosely labeled religious meaning. An example is the mystical character attributed to priestly sexuality by Elliger and Gerstenberger.[25] Such an esoteric

reading of the rule in question is not necessary once we identify the narrative that prompted it in the first instance. Where the specific motivation for a rule remains hidden, the temptation on the part of interpreters to resort to some general concept seems to be compelling. To generalize, however, is invariably to omit.

The incidents in Judges 19 (the Levite's promiscuous wife, her death, and the fate of her corpse) and in 1 Samuel 2–4 (the high priest Eli and his sons' misconduct at the Shiloh sanctuary) inspired the rules about priests and the restrictions on whom they can mourn and on whom they can marry (Lev 21:1–15). The same incident in 1 Samuel 2–4 that highlights the unfitness of Eli's family for the priesthood and also Eli's physical decrepitude underlies the presentation of the rule about the unfitness of priests to serve in the sanctuary on account of their bodily blemishes (Lev 21:16–24).

CHAPTER SEVEN

Life and Lies of David

Leviticus 22 and 23

With the crooked you will show yourself tortuous.

The primary focus of the author of Leviticus is the narrative traditions about the early history of the priesthood. From the time of the Judges, for example, there is the story of the Levite priest whose raped wife dies at the hands of a mob of Benjaminites. In the intertribal war that follows to avenge the outrage, many of the culprits die. The continuation of the tribe of Benjamin is only ensured when the other tribes permit the surviving Benjaminite males to "seize" wives for themselves during an annual festival at the Shiloh sanctuary (Judg 21:19). Later, but still in the time of the Judges, at the prelude to the monarchy, 1 Samuel 1–3 has a detailed account of the bad behavior of the priestly family of Eli at this same sanctuary at Shiloh. Eli's sons abuse the sanctuary's offerings and engage in promiscuous sex with the women who congregate there. As we saw in the preceding chapter, the focus on the Levite's wife and on Eli and his sons prompted the formulation of the rules in Leviticus 21—restrictions on which relatives priests can mourn, on the women priests can marry, and on priests themselves (on account of bodily integrity) serving at the sanctuary. The next rule that I am about to analyze, Lev 22:2–9, continues the focus on Eli's family (1 Sam 2:12–17), after which we move to cultic matters at the beginnings of the monarchy, especially at the sanctuary located in Nob.

Rules	*Narratives*
Lev 22:2–9. Unclean priests are not to eat the sacred portion of the sacrifice ordinarily due to them.	1 Samuel 2. The immoral priests at the Shiloh sanctuary eat portions of the people's sacrifices that are not due to them.
Lev 22:10–16. A layperson is not to eat food that is reserved for the priest.	1 Samuel 21. The layperson David receives at the Nob sanctuary food that ought to be reserved for priests only.
Lev 22:17–25. When presenting an offering, a layperson is not to give a blemished animal.	1 Samuel 20–22. Instead of the routine presentation of an offering at his family's annual sacrifice, David, fleeing from King Saul, comes to the Nob sanctuary where he offends against one of its sacred offerings.
Lev 22:26–33. A parent animal and its young are not to be slaughtered on the same day.	1 Samuel 22. David's presence at Nob led to the slaughter there on the same day of human and animal parents and children.
Leviticus 23. Israelites are required to attend certain annual feasts, with the Sabbath included at the beginning.	1 Samuel 20, 21. Faced with the dilemma whether to attend his family's annual feast or Saul's, David ends up at the Nob sanctuary, where he desecrates the Sabbath showbread offering.

At the Shiloh sanctuary, the priestly sons of Eli desecrate the sacrifices (1 Samuel 2). *The rule concerns the desecration of sacrifices by priests* (Lev 22:2–9).

The first part of the rule in Lev 22:2–9 (vv. 3–7) reads:

> Speak unto Aaron and his sons that they separate themselves from the holy things of the children of Israel and that they profane not my holy name in those things which they hallow unto me. Whosoever he be of all your seed [Aaron's] among your generations, that goeth unto the holy things, which the children of Israel hallow unto Yahweh, having his uncleanness upon him, that soul shall be cut off from my presence: I am Yahweh. What man soever of the seed of Aaron has a leprous disease . . . or a man whose seed goeth from him . . . shall not eat of the holy things.

Meat from sacrifices at a sanctuary can go to the deity, to priests, and to lay worshipers. The incident involving Eli's sons' wrongful interference with the worshipers' sacrifices (1 Samuel 2) inspires the construction of the law in Lev 22:2–9.[1] Depicting an unusual, certainly unlawful state of affairs, the narrative sharply raises

the topic of priests eating sacred food that is *not* due to them.[2] The lawgiver consequently turned to a contrasting issue that is much more likely: when can priests not eat food that *is* due to them? He proceeded to tabulate in his law those conditions which render a priest unclean and prevent him from eating sacred food. The law, then, in contrast to the narrative, is about food that priests ordinarily can eat but, on account of their unclean state, must not. Because of this contrast, the lawgiver derived the list of disqualifying conditions not from anything in the narrative but from his preceding laws in Leviticus 10–15: skin eruptions, emission of semen, corpse contamination, and related uncleanness. The inclusion in the list of the emission of semen is interesting in light of the fact that not only do the priests Phinehas and Hophni greedily meddle with the people's offerings by eating what is not theirs to eat, but they do so when ritually unclean because of their promiscuous sex with the women who serve at the sanctuary (1 Sam 2:22).

There is an explicit reference in the law to how offending priests involve themselves with the people's offerings ("Holy things, which the children of Israel hallow unto Yahweh"). Like Eli's sons, Phinehas and Hophni in the story, they show disdain for the holiness that attaches to such offerings. The penalty in the law for any priest who deliberately offends is that Yahweh will cut him off from his presence. In the narrative, Yahweh certainly cut off Phinehas and Hophni from his presence (when they die accompanying the Ark in the battle with the Philistines; 1 Sam 4:4, 17).[3]

The rule continues with a focus on a different topic: the unacceptability of a priest who eats flesh that comes from an animal that has died a natural death or from an animal that has been savaged by another animal. The rule states: "That which dieth of itself, or is torn, he shall not eat to defile himself therewith. . . . They shall therefore keep my ordinance, lest they bear sin for it, and die therefore, if they profane it: I Yahweh do sanctify them" (Lev 22:8, 9). Why is this particular switch made?

A priest eating flesh of the kind in question is an especially blatant type of offender because he can be in no doubt that such animals have no place in the service of the sanctuary. Each type of defective animal fails the fundamental requirement that its life blood must be immediately removed at the moment of death. A priest who proceeds to eat such an animal is, I suggest, the equivalent of Eli's sons who consume the flesh of offerings that they well knew they should not be eating. Like them, his motivation is greed.[4] For his offense, he receives a severe sanction—death. So too, death befalls Eli's sons.

David receives sacred food that is set aside for the priests (1 Samuel 21). *The rule prohibits a layperson's consumption of priestly food* (Lev 22:10–16).

The rule in Lev 22:10–16 reads:

> There shall no stranger [layperson] eat of the holy thing. A resident hired servant of the priest shall not eat of the holy thing. But if the priest buy any soul with his money, he shall eat of it, and he that is born in his house: they shall eat of his food. If the priest's daughter also be married unto a stranger [layperson], she may not eat of an offering of the holy things. But if the priest's daughter be a widow, or divorced, and have no child, and is returned unto her father's house, as in her youth, she shall eat of her father's food: but there shall no stranger [layperson] eat thereof. And if a man eat unwittingly, then he shall pay the priest for the holy thing, adding one-fifth of its value. And they shall not profane the holy things of the children of Israel, which they offer unto Yahweh. Or suffer them to bear the iniquity of trespass, when they eat their holy things: for I Yahweh do sanctify them.

The rule follows well from the preceding concerns. Eli's sons, the priests, ate sacred food that was not theirs to eat. The lawgiver then inquired as to when priests must *not* eat sacred food that is ordinarily theirs to eat (Lev 22:2–9). In his following rule in Lev 22:10–16, he still kept his focus on sacred food (of a certain kind) and continued to ask about any other category of person who is forbidden to eat it. He came up with the example of a layperson.

If, when unclean, a priest is barred from consuming his own sacred dues, because to eat them when unclean is to desecrate the sanctuary (Lev 22:3–9), then a contrasting concern is when a layperson wrongfully consumes what is not permitted to him because by doing so he desecrates the sanctuary (Lev 22:10–16). As we might expect, the lawgiver explored the issue because it is embedded in a narrative. The incident comes from the very next account in 1 Samuel concerning a priest serving at a sanctuary, the Nob sanctuary, the one we learn about after Eli's sons' service at the Shiloh sanctuary. The priest is Ahimelech, the great grandson of Eli (1 Sam 14:3), and the layman is none other than the future King David (1 Samuel 21). The narrator of the book of Samuel views, I shall later note, the two incidents as very much related.

DAVID'S LIES

Fleeing from the hostile King Saul, David, in a hungry state, comes to the sanctuary at Nob—the seat of the house of Eli after the fall of the Shiloh sanctuary—and asks that Ahimelech give him "five loaves of bread or whatever is here" (1 Sam 21:3). Ahimelech tells him that only sacred bread is on hand, the showbread (or Bread of the Presence), twelve loaves of which are placed on the altar every Sabbath according to Lev 24:5–9. Ahimelech implies that he cannot give this sacred bread to David but leaves open the possibility that he might be able to give it to him if David has

refrained from sexual relations. David claims, but it is a brazen lie, to be in a state of ritual cleanness and to be accompanied by men in a similar state. Taken in by his claim, and certainly contrary to the law currently under consideration in Lev 22:10–16 ("There shall no stranger [layperson] eat of the holy thing"), Ahimelech yields to the request and gives David the sacred food.

Here then, from the lawgiver's standpoint, was an example where a layperson desecrates sacred food—*qodesh*, "a holy thing" (Lev 22:10)[5]—that is for priests alone to consume. At the very least, this would have been the lawgiver's judgment.[6] Although irrelevant from the law's point of view, David's claim to be ritually clean is presumably as false—he only recently had been with his wife Michal (1 Sam 19:11–17)—as his claim that he has companions with him. The law stands opposed to the priest Ahimelech's action regardless of David's deception: under no circumstances can priestly food be given to a layperson.

TEMPORARY RESIDENTS AT A SANCTUARY

Other features of the incident about David at Nob illumine further aspects of the rule. The lawgiver required that not only must a layperson like David desist from eating the sacred food, but so too must a priest's hired servant who temporarily resides with the priest. If, however, a priest actually purchases a slave, the latter, who is presumably a foreigner,[7] can eat of the sacred food. So too can anyone who is born in the priest's house, although qualifying conditions apply to such persons. If a priest's daughter, for instance, is married to someone who is not a priest she cannot eat the sacred food, but if she is divorced or widowed and childless, and returns to her father's home, she can partake.

What prompted the lawgiver to take up such matters, I suggest, is a notice in the same incident about David in 1 Sam 21:7. A servant of King Saul, Doeg, who is an Edomite, a foreigner, "was detained [*'azar*] before Yahweh" at the Nob sanctuary. Whatever exactly is meant, Doeg is a nonpriest who, for whatever reason, is confined at a holy place.[8] It is this kind of affiliation that the lawgiver took up when he laid out the conditions under which nonpriests who are in residence at a sanctuary can eat sacred dues. Temporarily hired residents, like Doeg, cannot consume priestly dues but permanently purchased servants can: "But if the priest buy any soul with his money, he shall eat of it."

SEXUALITY AND SACRED FOOD

The lawgiver also raised the quite specific issue of the sexual standing of a person who is not a priest but who might still have a legitimate claim to consume sacred food. In particular, he considered whether it is appropriate for the daughters of priests to consume it. Why should such a specific topic arise? As it happens, the curious topic of someone's fitness to eat sacred food in relation to present or previous sexual attachments comes up in 1 Samuel 21. The high priest Ahimelech permits the nonpriests David and his (fictitious) companions to eat the showbread after he receives assurances from David that he and his men have kept themselves from women. Although the lawgiver has certainly opposed the stance Ahimelech adopts in the story, he nonetheless took up the issue of sacred food and sexuality in regard to the daughters of priests. From his point of view, they were the likeliest persons to come into reckoning in such matters. His judgment was that they could eat if the following condition was met. Only if the priest's daughter has shed any attachment to her previous marriage to a layperson—as divorcee or as widow and without a child from that marriage—and resumed at her father's home a nonsexual state comparable with that of her youth, can she eat the sacred food.

UNWITTING CONSUMPTION OF SACRED FOOD

The law further considered the case where the layperson unwittingly consumes the sacred offering. We might wonder how that could happen without the priest being somehow involved. In any event, the layperson, having done so, has to make reparation. Why does this aspect of the offense receive attention? In 1 Samuel 21, Ahimelech permits David to eat the showbread and genuinely thinks that it is all right for him to do so once he hears that David has been sexually inactive. But from the lawgiver's viewpoint, Ahimelech should never have given that permission even if he was satisfied that David met the requirement of recent sexual abstinence. Ahimelech and David do not seem to know that what they are doing is wrongful. David lies about his state because he seems to think that if he were in a pure state he could eat the sacred bread. The apparently genuine nature of Ahimelech's and David's error prompted the lawgiver to turn to the question of unwitting trespass in the matter of a layperson's eating sacred food.[9]

The confusing language in the rule, which includes a switch from the singular address to the plural "they," may reflect the culpability of David and Ahimelech, layperson and priest, in the story ("They shall not profane the holy things of the chil-

dren of Israel"). Ahimelech offends by giving David the sacred food, and David offends by consuming it. Much disagreement prevails among critics as to whether the plural pronoun in the rule refers to priests or laypeople. Without awareness of the lawgiver's concern with the details of the story, the divergence of opinion is understandable.[10] In light of the narrative, either the pronoun "they" refers to both or, more likely, to priests like Ahimelech, who should know not to give sacred food to laypeople, no matter the circumstances, and who, if they do, burden such laypeople with iniquity ("Or suffer them to bear the iniquity of trespass").

Instead of presenting an offering at his family's yearly sacrifice, David is with the priest Ahimelech at the Nob sanctuary where he receives a priestly offering (1 Samuel 20–22). *The rule is about priests and laypersons together offending against the sacrificial order relating to lay offerings* (Lev 22:17–25).

The rule in Lev 22:17–25 reads (in part):

> Speak unto Aaron, and to his sons, and unto all the children of Israel. . . . Whosoever he be of the house of Israel, or of the sojourners in Israel that will offer his oblation for all his vows, and for all his freewill offerings, which they will offer unto Yahweh for a burnt offering; ye shall offer at your own will a male without blemish . . . but whatsoever hath a blemish, that shall ye not offer: for it shall not be acceptable for you. And whosoever offereth a sacrifice of peace offerings . . . there shall be no blemish therein. Blind, or broken, or maimed. . . . Neither from a foreigner's hand shall ye offer the bread of your God of any of these; because their corruption is in them and blemishes be in them: they shall not be accepted for you.

In the first of the preceding two rules (Lev 22:2–16), an unclean priest is forbidden to eat the sacred offerings, and in the second, a layperson, even if in a state of purity of the kind that David claims to enjoy, is forbidden to eat sacred food reserved for the priests. We might note the switch in the former rule from an emphasis on a person's—that is, a priest's—state of purity, to an emphasis in the latter rule on the sacred character of the offering itself. In the next rule in Lev 22:17–33, the focus on the intrinsic sacred character of the offering continues: blemished offerings of any kind are unacceptable because, being blemished, they lack the quality of sacredness. What is equally important to note is that the rule concerns the involvement of layperson and priest together at the sanctuary (Lev 22:17). Milgrom draws attention to this joint involvement when he states, "Both the priesthood and the laity are held responsible for detecting sacrificial blemishes by the offerer, when the animal is chosen, and by the priest, when the animal enters the sanctuary grounds."[11]

David's history in relation to cultic matters continues to be the lawgiver's focus.

David is supposed to be in attendance at his family's yearly sacrifice at Bethlehem, doubtless to participate in offering a sacrifice there (1 Sam 20:6; cf. Elkanah's at Shiloh in 1 Sam 2:19). Instead, he ends up at the sanctuary in Nob, where he blatantly lies about his state of purity in order not to present a sacrifice but to be given sacred food, which the priest Ahimelech is prepared to give him. It is but a short step to the lawgiver's considering how such an unscrupulous attitude to receiving sacred food might also produce a similar attitude to giving a sacrifice—for example, a person offering one that he knows to be blemished. The rule is expressly taken up with private sacrifices that come from the laity.

In contrast to the exceptional action of the layman David in receiving sacred food at the Nob sanctuary, the giving over of sacrifices to a sanctuary is what laypeople ordinarily do; and the lawgiver duly took up the more usual matter. His focus was on the intrinsic character of the offering and what accounts for his interest is the unacceptable situation at the Nob sanctuary. What occurs there raises the issue of the debasement of sacred offerings by an attendee *and* a priest. The interaction between David and Ahimelech is, therefore, what prompted the lawgiver to focus on the mutual involvement of layperson and priest in regard to the much more common matter of laypeople bringing sacrifices to a sanctuary. We have observed before (in regard to Lev 22:2–9) that where a law, in contrast to the prompting narrative, is about a more common state of affairs than the highly unusual one found in the narrative, the lawgiver might borrow from a preceding law. In this instance, he looked back to his law about blemished priests (Lev 21:16–23) and set out those comparable blemishes which might be found in animals.

A FOREIGNER'S ANIMALS

The continuation of the story about events at the Nob sanctuary may be relevant to another aspect of the rule, namely, its curious concern with a foreigner's involvement in the Israelite cult. The story goes on to tell how King Saul learns that the priest Ahimelech has given David the showbread and a sword, Goliath's sword as it turns out (1 Sam 21:8, 9). Imagining a conspiracy against him, King Saul orders the slaughter of the Nob priests after Doeg reports to him about Ahimelech's gesture to David (1 Sam 22:9–19). Not only does Doeg kill all the priests, but he puts to the sword the entire city of Nob. David is the cause of the catastrophic outcome for he, not these unfortunate priests, is the primary object of King Saul's wrath.

We might wonder why a lawgiver would bother about a foreigner's involvement in sacrificial activity at an Israelite sanctuary. Yet the rule does incorporate a concern with an Israelite's acceptance of sacrificial animals from a foreigner (Lev 22:25). The

narrative proves illuminating. The foreigner Doeg (he is a resident alien from Edom) is temporarily attached to the sanctuary at Nob. Moreover, in referring to Doeg's presence there, the narrator of 1 Sam 21:7 records his primary role in life as that of chief keeper of Saul's flocks.[12] It is therefore noteworthy that, in the narrative as in the law, we find a shared focus on a foreigner, his involvement with animals, and his link with a sanctuary. Doeg eventually goes on first to slaughter the Nob priests and then to put to the sword all the inhabitants of Nob, including its sanctuary animals. He thus proves to be a foreigner who, having been in service at the Nob sanctuary, in the end shows disdain for the sanctity attaching to Israelite priests, the town that houses their sanctuary, and their sanctuary animals.[13] In producing a much less extreme and more likely example of a foreigner's association with the Israelite cult, the lawgiver warned against the acquisition of blemished animals from a foreigner.

At Nob, Doeg indiscriminately slaughters, on the same day, parents and offspring, human and animal (1 Samuel 22). *The rule, in turn, prohibits the same day slaughter of animals and their offspring* (Lev 22:26–33).

The rule in Lev 22:26–33 reads (in part):

> And Yahweh spoke unto Moses, saying, When a bullock, or a sheep, or a goat, is brought forth, then it shall be seven days under the dam; and from the eighth day and thenceforth it shall be accepted. . . . However no animal from the herd or from the flock shall be slaughtered on the same day with its young. And when ye offer a sacrifice of thanksgiving . . . On the same day it shall be eaten up; ye shall leave none of it until the morrow: I am Yahweh. Therefore ye shall keep my commandments, and do them: I am Yahweh. Neither shall ye profane my holy name; but I will be hallowed among the children of Israel; I am Yahweh which hallow you, that brought you out of the land of Egypt, to be your God: I am Yahweh.

Further reflection by the lawgiver on the massacre at the sanctuary town of Nob may account for a puzzling switch of subject matter. There is a move from the topic of bodily blemishes in animal sacrifices to the different topic of the same day slaughter of animals and their offspring as sacrifices, where the concern is not with any blemish attaching to them. How do we account for the move?

Part of the extreme development that occurs at the hands of Doeg includes the simultaneous slaughter of "women, children and sucklings, and oxen, and asses, and sheep" (1 Sam 22:19). The animals he slaughtered undoubtedly included sacrificial ones for the sanctuary at Nob and, like the human women, children, and infants slaughtered, would have included animals and their young. Directed against the priests and the residents there, the attack is sacrilegious in the extreme.[14] Even the

servants of Saul had disobeyed their master's order to slay the priests. Saul had then called on Doeg to do so (1 Sam 22:17).

Focused on how the sanctuary should function ordinarily, the lawgiver considered, I suggest, the equivalent to the sacrilege that occurs at Nob. The mirroring action to what happens there, the killing of mothers and children on the same day, is the sacrificial slaughter of animal mothers and offspring on the same day. While still concerned with slaughter at a sanctuary, only now of an approved kind, the prohibition insists that any offspring must not die at the same time as the mother.

An interesting detail supports this interpretation. Critics ask whether the prohibition applies to the father as well as to the mother of the animal. The curious problem arises because the language of Lev 22:28 surprisingly refers to the male. It literally states, "And the ox or the flock animal, it and its young," instead of what we might naturally expect, "a cow and its offspring." Gerstenberger, by comparing the rule to the prohibition against boiling a kid in its mother's milk (Exod 23:19, 34:26; Deut 14:21), thinks that the injunction must concern the mother only. Milgrom, however, rightly insists that the language of the rule in Lev 22:28 makes it clear that both sexes are included.[15] Again, the narrative about Doeg proves most helpful in illuminating the rule's unexpected formulation. The language of Lev 22:28 (*šor* and *śeh*, "ox" and "flock animal") is the same as for Doeg's action against the Nob animals that he slaughtered on the same day, and there can be no question that he would have killed both male and female parent animals and offspring on the occasion (1 Sam 22:19). Gerstenberger's apparently commonsense judgment breaks down in light of the link between narrative and law.

David fails to turn up both at his family's annual feast and King Saul's. Instead he turns up at the Nob sanctuary on the Sabbath where he claims to be on a journey doing the king's business (1 Samuel 20, 21). *Beginning with the Sabbath, the rule sets out the list of festivals that an Israelite is required to attend. There is repeated instruction that the worshiper must refrain from doing any business on such occasions* (Leviticus 23).

The list of required festivals in Leviticus 23 reads (in part):

> Concerning the feasts of Yahweh, which ye shall proclaim to be holy convocations, even these are my feasts. Six days shall work be done; but the seventh day is the sabbath: it is the sabbath of Yahweh in all your dwellings. These are the feasts of Yahweh [Passover, Unleavened Bread, First-fruits, Weeks, Trumpets, Atonement, Booths]. . . . In the first day [of Passover] ye shall do no servile work. . . . Also in the fifteenth day of the seventh month, when ye have gathered in the fruit of the land, ye shall keep a feast

unto Yahweh seven days: on the first day shall be a sabbath, and on the eighth day shall be a sabbath.

David's life course when persecuted by King Saul at the time of the incident at the Nob sanctuary is again relevant to the rules about Yahweh's required feasts. King Saul fully expected David to be present with him at the New Moon feast (1 Sam 20:5). Saul's son Jonathan has to explain to his suspicious father that David has not been able to turn up because David's brother required his sibling to attend ("my brother has commanded me to be there") the annual family sacrifice at Bethlehem (1 Sam 20:29).[16] However complicated David's circumstances are at this time, the narrative brings up the matter of an Israelite's obligation to attend one sacrificial occasion as against another.

Having continued to focus sequentially on cultic matters that come up during David's life, the lawgiver took up the problem that the narrative raises, namely, those fixed occasions of Yahweh that an Israelite is indeed under an obligation to attend (Lev 23:2, 4, 44). It is relevant to note that neither the New Moon feast nor David's family feast cites any obligation to Yahweh.[17] In any event, the narrative raises the issue of an Israelite's obligation to attend certain lesser feasts, and the law has gone on to raise for all Israelites their obligation to attend the more important feasts. In the law, the injunctions about the various festivals are addressed to the Israelites ("Speak to the children of Israel"; Lev 23:2) with no mention of the priests (they come into the preceding rule about blemished offerings; Lev 22:17–33). The sole focus in the narrative on the layman David's obligation explains the focus on the obligation of lay Israelites in the law.

The frequent reiteration of the requirement that an Israelite refrain from labor on these occasions is marked: Lev 23:7, 8, 21, 24, 25, 28, 30, 31, 35, 36, and 39. In contrast to the calendar in Deut 16:1–17 (unleavened bread is an exception; v. 8), the one in Leviticus 23 expressly requires that on each of the festival days the participants must refrain from working. What might account for this repeated concern in the Leviticus 23 calendar?

There is another interesting matter to do with work. The list begins with a statement about observing the Sabbath day (Lev 23:3), and the injunction about it explicitly calls for a rest from work, unlike the corresponding injunction in the parallel calendar in Num 28:9, 10 ("And on the Sabbath day two lambs of the first year without spot and two tenth deals of flour for a meat offering. . . . This is the burnt offering of every Sabbath"). As critics rightly point out, what is really puzzling is to find the institution of the Sabbath included among Yahweh's appointed festivals at all. What, then,

in addition to a concern with the other various rests from work on the festivals, has prompted the inclusion of the Sabbath among them, as if it too is a festival occasion?

The narrative about David's nonattendance at the New Moon festival is again helpful in addressing the problems. Initially noteworthy is that in other texts, but not in Leviticus 23, the Sabbath and the New Moon feast are commonly cited together (Num 28:9–15, the calendar closest to the one in Leviticus 23; Isa 1:14, 66:23; Hos 2:11; Amos 8:5). If we assume that the New Moon feast that David was supposed to attend has inspired the lawgiver to set down those festivals that an Israelite is indeed obligated to attend, but he excludes the New Moon feast from the list of obligatory festivals, then we might draw the following conclusion. Given the narrative's focus on Saul's New Moon feast and the frequent juxtaposition in biblical tradition of New Moon and Sabbath, the lawgiver cited the Sabbath in place of the nonobligatory New Moon festival. The Sabbath then headed the list of festivals as if it were a festival too.

Even more revealing, especially in regard to the repeated concern with desisting from labor on Sabbath and festivals, is David's claim that he is secretly engaged in the king's business (1 Sam 21:2, 8). It is a lie (he is in flight from a hostile King Saul), but it brings up the issue of his doing business on the Sabbath. From the lawgiver's viewpoint, David is indeed breaking the Sabbath (Lev 24:8). The story does not explicitly state that the day on which David requests and receives the sacred bread is the Sabbath. But the priest Ahimelech claims that only holy bread is available. His claim suggests that these events occur on the Sabbath because, in accordance with Lev 24:8 and 1 Chron 9:32, it is the Sabbath when no common but only sacred bread is baked (1 Sam 21:4). One critic emphasizes this point when he states that, but for the Sabbath, there was surely no difficulty in preparing ordinary bread for David's use.[18]

The issue of breaking the Sabbath would also account not just for the injunction about the Sabbath in the list of appointed feasts, but also for the repeated concern that the Israelites refrain from work on festival days too. For, not only is David on a supposed errand on the Sabbath, he is also on account of this alleged errand unable to attend either the sacrificial feast in Bethlehem or King Saul's New Moon feast. Putting aside the complexities caused by David's problem with King Saul, the rule, in turn, is not only about how certain feasts of Yahweh are obligatory, but how it is incumbent on an Israelite not to engage in any business on these sacred occasions.[19]

The New Moon feast that David was supposed to attend occurs on the first day of the month. This feast's importance in determining the calendar for festivals may explain the concern with actual dates in Leviticus 23.[20] Thus Leviticus 23 first turns

to the fourteenth and fifteenth days of the first month (the Passover Offering and the Feast of Unleavened Bread on these days), that is, to the fourteenth and fifteenth days after the first day of the first month. The time for the offering of the firstfruits of the barley harvest is next specified, the first day of the week after the Feast of Unleavened Bread. Fifty days later we have the Feast of Weeks in celebration of the wheat harvest. We then come upon an explicit concern with a unique New Moon feast, the one that occurs in the seventh month when there is indeed to be an obligatory festival, that of Trumpets. Next is the Day of Atonement on the tenth day of the seventh month and this is followed by the Feast of Booths on the fifteenth day of this month.

The bias of the parallel calendar in Numbers 28 and 29 is not on dates as such but on specifying the types of offerings that an Israelite presents at all the festivals he attends. The list includes the New Moon feast. Critics claim that the calendar in Numbers 28 and 29 is based on the Leviticus 23 calendar. If correct, then the comprehensiveness of the Numbers calendar highlights the bias of the calendar in Leviticus 23, namely the obligation upon an Israelite to attend certain festivals. To explain the bias, we can again suggest that it is owing to the issue that comes up in the narrative—namely, attending one feast and not another.

Another puzzle in Leviticus 23 yields to a solution by again suggesting that the lawgiver's scrutiny of David's involvement in sacred matters has prompted many laws at this point in Leviticus. In the midst of the list of festivals comes the quite unexpected, noncultic rule in Lev 23:22: "When ye reap the harvest of your land, thou shalt not make clean riddance of the corners of thy field when thou reapest, neither shalt thou gather any gleaning of thy harvest: thou shalt leave them unto the poor, and to the stranger: I am Yahweh thy God." Critics think that the injunction must be an addition that has been prompted by its context, because it appears after the requirement to observe the two festivals of the new harvest (Lev 23:9–21). No attempt is made, however, to explain why its subject matter is the noncultic concern with those in need of food. Some other context seems to be exercising an influence also.

In light of the lawgiver's focus on cultic matters affecting David, it might be suggested that what prompted the rule is David's hunger on his arrival at the Nob sanctuary and his request for food because of it. The showbread he receives, a cereal offering, would doubtless have come from the latest harvest. On account of its sacred character, however, it is not the kind of food that can be given to a layperson, even to alleviate hunger (Lev 22:10–16). David's starving state encourages the question: are there other circumstances when grain from the new harvest can be given to those in need? The restriction David encountered has consequently prompted the rule in Lev 23:22. Whereas the cereal offering of the showbread cannot go to a hungry lay

Israelite, grain at the time of the new harvest can. Cultic considerations are irrelevant in that situation. We have gone from the exceptional cultic situation depicted in a narrative about an individual's need to a rule that focuses on more ordinary circumstances in a noncultic setting—the perennial need of the hungry to acquire grain.

The citation of the law about leaving grain for the needy at harvesttime in Lev 23:22 recalls the similar rule about the forgotten sheaf of grain in Deut 24:19–22 (see my discussion in the introduction). Different narrative incidents, including David's hunger in 1 Samuel 21 and Joseph's provision of grain to the needy in Genesis 37–50, inspire the presentation of the similar rules—rules already familiar to the lawgiver (but not to us) in some (probably unwritten) shape or form.

Events first at the Shiloh sanctuary trigger the rules about the priestly desecration of sacrifices and the eating of carrion (Lev 22:2–9). Next, the events at the Nob sanctuary, especially those involving David, prompt the rules about the desecration of sacred offerings by laypersons, blemished offerings, and religious festivals (Lev 22:10–23:44).

CHAPTER EIGHT

Blasphemies

Leviticus 24

There are, it appears, violent moments when tomorrow is seized today.

The first two rules in Lev 24:1–9 read:

> And Yahweh spoke unto Moses, saying, Command the children of Israel, that they bring unto thee pure oil olive beaten for the light, to cause the lamps to burn continually. Without the vail of the testimony, in the Tent of Meeting, shall Aaron order it from the evening unto the morning before Yahweh continually: it shall be a statute forever in your generations. He shall order the lamps upon the pure candlestick before Yahweh continually.
>
> And thou [Moses] shalt take fine flour, and bake twelve cakes thereof: two tenth deals shall be in one cake. And thou shalt set them in two rows, six on a row, upon the pure table before Yahweh. And thou shalt put pure frankincense upon each row, that it may be on the bread for a memorial, even an offering made by fire unto Yahweh. Every Sabbath he [Aaron] shall set it in order before Yahweh continually, being taken from the children of Israel by an everlasting covenant. And it shall be Aaron's and his sons'; and they shall eat it in the holy place; for it is most holy unto him of the offerings of Yahweh made by fire by a perpetual statute.

Why should the lawgiver have singled out the sanctuary lamp and the Sabbath showbread offering as the two items pertaining to the sanctuary when he could have highlighted so many others? Jacob Milgrom mentions, for example, the provision of

the daily incense and the anointment oil (Exod 35:8, 27, 28).[1] Why also do the injunctions about the sanctuary lamp and the Sabbath showbread appear after the requirements to attend certain festivals and to avoid work on the Sabbath and on festival days? David's appearance at the Nob sanctuary is again relevant. One reason for his presence there was to avoid attendance at Saul's New Moon feast, the issue that triggered the list of festivals in the preceding rule.

Rules	*Narratives*
Lev 24:1–9. Rules are provided about the sanctuary lamp and the Sabbath showbread for the priests.	1 Samuel 3, 21, 22. Just before the sanctuary lamp goes out, Samuel predicts the grim end of Eli's priestly line, which does indeed occur after David receives the showbread at the Nob sanctuary.
Lev 24:10–16. A story recounts a judgment about legal procedure in convicting a blasphemer.	1 Kings 21. Queen Jezebel perverts legal procedure in convicting the alleged blasphemer Naboth.
Lev 24:17–23. Rules are given about homicide, killing a beast, and mutilating a person.	1 Kings 21, 22; 2 Kings 9. King Ahab and Jezebel die for their murder of Naboth and Jezebel's corpse is torn apart.

Samuel's vision just before the sanctuary lamp was extinguished foresaw the terrible end that would befall the priestly house of Eli at the Nob sanctuary, an event that David's consumption of the showbread triggered (1 Samuel 3, 21, 22). *The rule, in turn, concerns the presence of the sanctuary lamp and the showbread in the sanctuary* (Lev 24:1–9).

At the Nob sanctuary, King Saul's servant Doeg observes the high priest Ahimelech give David the showbread and Goliath's sword (1 Samuel 21). A consequence is that, after Saul hears about the matter, he summons Ahimelech and the priests of Nob to appear before him and orders Doeg to slaughter all of them, which Doeg proceeds to do (1 Sam 22:18).

The deaths of these priests are important to our lawgiver not just, I suggest, as a significant event in the history of the priesthood. More crucially, their fate also fulfills the prediction, expressed in an earlier, related passage, that the house of Eli would come to a violent end on account of the sins of Eli's sons (1 Sam 3:10–14). Samuel receives that prediction "ere the lamp of God went out in the temple of Yahweh," when God vouchsafes to him a vision, quite rare in those days (it is said), about the grim fate of the priestly line of Eli (1 Sam 3:1, 3; also 1 Sam 2:27–36). The

reference to the sanctuary lamp is the only one of its kind in biblical narrative. Its mention there suggests that, as a sign of the deity's presence, the sanctuary lamp is indeed associated with divine revelation of the kind that Samuel receives. A text in 2 Sam 22:29 states: "For thou art my lamp, O Yahweh, and Yahweh will lighten my darkness."[2]

This profoundly significant event in Israelite history, the revelation that is intimately linked to the Shiloh lamp, prompted the lawgiver to set down at this point in Leviticus the rule about the lamp's function in the sanctuary. At a major moment in the nation's history, marked as it is by the about-to-be-extinguished lamp, a rare oracle linked the priestly abuse of the sanctuary to its appalling consequence in a later generation. Doeg's slaughter of the sacred personnel belonging to the Nob sanctuary is, in heaven's inscrutable way, due vengeance for their predecessors' abuse of the Shiloh sanctuary. It is as if an evil action immediately brings within its embrace later evil events, the fearsome phenomenon of tomorrow being seized today.

As for the rule about the showbread, its central role in leading to the eventual deaths of Ahimelech and his fellow priests also fits right into the history of the priestly line of Eli. Like the reference to the sanctuary lamp, reference to the showbread appears in but a single narrative incident, the one about David at Nob in 1 Samuel 21. The two allied items in the law, the sanctuary lamp and the showbread for the sanctuary, thus serve to highlight the beginning and end points of the divine judgment that befell a significant priestly family in its history of sanctuary service. The destiny of Eli's house explains well why the two rules (oil that ensures the continuous burning of the sanctuary lamp from evening to morning and the provision of showbread for the sanctuary), and only these two rules about sanctuary provisions, come not just to be set down but to be set down together. The time between the incident involving Samuel and the incident involving David encapsulates the fate of the priestly line that lost its sacerdotal rights because of its contempt for the sanctuary.[3] Little wonder, also, that this stretch of history led the lawgiver to concentrate on the many cultic offenses that occurred during it and to set out a number of laws in response to them (Lev 22:10–16, 17–33; 23:1–44).

Further motivating the lawgiver to single out the showbread in particular was probably the need to make a few other matters quite clear. The showbread is food for the priests alone, not for a layperson like David. It must be consumed in "a holy place." We can safely assume that that did not happen with David. Additionally, there is a need to make explicit its use in the sanctuary on the Sabbath because priests, and priests alone, are permitted to violate the rule against working on the Sabbath (Lev 23:3). After his preceding concern in Lev 23:3 about the unacceptable desecration of the Sabbath (he puts the Sabbath rule at the head of the list of festivals), the

lawgiver will have been alert to the single approved infringement of the Sabbath.[4] Set against the backdrop of the conduct of such a notable figure as David, the features in question also inspired the lawgiver to spell out the law about the showbread.

David treats King Saul and the sanctuary at Nob with contempt. The grim aftermath of the incident, when Doeg slaughters the innocent priests there, fulfills the prophecy that the priestly house of Eli would come to a bad end because of its blasphemous conduct at the Shiloh sanctuary in an earlier generation. A later incident, not involving a sanctuary, recounts how King Ahab and Queen Jezebel pervert justice by having a court collude in convicting the innocent Naboth for uttering contempt against King Ahab and God, a crime of blasphemy (1 Samuel 2, 21; 1 Kings 21). *Leviticus, in turn, which is dominated by concerns related to the sanctuary, recounts a narrative incident surprisingly not involving the sanctuary about Moses seeking guidance as to how to proceed in properly convicting a blasphemer* (Lev 24:10–16).

The account in Leviticus 24 reads:

> And the son of an Israelitish woman, whose father was an Egyptian, went out among the children of Israel: and this son of the Israelitish woman and a man of Israel strove together in the camp; and the Israelitish woman's son blasphemed the name of Yahweh, and cursed. And they brought him unto Moses . . . and they put him in ward, that the mind of Yahweh might be showed them. And Yahweh spake unto Moses, saying, Bring forth him that hath cursed without the camp; and let all that heard him lay their hands upon his head, and let all the congregation stone him. And thou shalt speak unto the children of Israel, saying, Whosoever curseth his God shall bear his sin. And he that blasphemeth the name of Yahweh, he shall surely be put to death, and all the congregation shall certainly stone him: as well the stranger, as he that is born in the land, when he blasphemeth the name of Yahweh, shall be put to death.

BLASPHEMY

How do we explain the fact that the author of Leviticus, after giving his two rules about the sanctuary lamp and the showbread, records the preceding incident, in which the sanctuary plays no role, about a man who curses God? The incident occurs during the period when Moses is leading the Israelites out of Egypt. It seems the strangest of transitions. Why also, instead of simply confining himself to setting down a rule about the penalty for blasphemy, does he choose to narrate an incident that, before laying out the penalty, details how Moses first inquires of God about how he should proceed in handling a case of blasphemy?

I turn first to the question why the lawgiver arrived at the decision to give an account of an episode, not a rule only, involving a blasphemer. The springboard for his concern was, I submit, a continuing focus on the incident about the showbread at the Nob sanctuary and its fateful aftermath. Although it is not stated in so many words that David committed blasphemy, the issue is certainly touched on when David visits the sanctuary at Nob. When he lies to Ahimelech, the priest at the Nob sanctuary, the lie involves both the king and God, since David boldly makes light of King Saul by claiming to be in his service and also treats both the sanctuary and the high priest Ahimelech with contempt (1 Sam 21:2, 5).[5] The horrific consequence of David's barefaced deception is Doeg's slaughter of the priests at Nob, an action that is itself blasphemous. In 1 Sam 22:22, David acknowledges that he occasioned the death of innocent persons.

It is all the more noteworthy that the narrator of 1 Samuel links David's blasphemous conduct at the Nob sanctuary to the earlier episode of blasphemy at the Shiloh sanctuary, when Eli's sons treat it with contempt (1 Sam 2:12, 17; 3:13). David's lies at the Nob sanctuary lead to the deaths of Ahimelech and his fellow priests. The narrator views their deaths at the hands of Doeg as the consequence of their ancestors' offense against the Shiloh sanctuary (1 Sam 3:10–14). It is generally agreed that the original Hebrew of 1 Sam 3:13, for reasons of delicacy, purposefully avoided stating in outright terms that Eli's sons blaspheme God (as the Greek manuscripts read). Like the narrator in redacting the history of the priesthood in the books of Judges and Samuel, the lawgiver similarly ranged over it and made comparable judgments.

I wish to argue that because the topic of blasphemy was of enormous consequence to the lawgiver, he did not just set down a rule in response to the indirect ways in which the topic arises in the preceding narratives. He chose instead to give it full prominence. To do so, he turned to an incident in a generation well beyond the time of David and Doeg in which blasphemy is indeed central to the story's outcome. The narrative in question, in 1 Kings 21, continues the theme of defection from God that is so important to the narrator of the books of Samuel and Kings—for instance, Solomon's seduction into idolatrous ways by his wives and the setting up of the golden calves in the reign of Jeroboam (1 Kings 11, 12). The story in 1 Kings 21, moreover, concerns an event that is remarkably similar to David's fateful action at Nob. Significantly, it does not involve the sanctuary and it brings up the very issues the lawgiver incorporates in the incident about the blasphemer in Leviticus 24. As I already noted, surprisingly for Leviticus, the latter account also does not concern an offense that directly involves the sanctuary.

In 1 Kings 21, Jezebel, the foreign wife of King Ahab, carries out on his behalf a fraudulent scheme to acquire the vineyard of Naboth, which is next to the royal

palace. In collusion with a local court in the Israelite town of Jezreel and with the full approval of her husband Ahab, Queen Jezebel concocts a lie to the effect that Naboth cursed God and the king. She thereby sets up Naboth on a charge of blasphemy: "Thou didst blaspheme God and the king" (1 Kgs 21:10). The corrupt court then subjects the innocent Naboth to the full force of the law by exploiting legal procedure to ensure a guilty verdict against him. The terrible consequence is the "juridical" death of Naboth at the hands of the local court in Jezreel.

The parallels between David's actions at the time of the showbread incident and those alleged against Naboth are striking. On account of contempt for God and the king on the actual part of David and the alleged part of Naboth, wrongful deaths occur: the innocent priests and the innocent Naboth. There is also in each instance a dispute taking place, King Saul with David and King Ahab with Naboth. Moreover, common to each episode is the important role played by a foreigner. Doeg, the Edomite acting for King Saul, single-handedly murders the Nob priests, and Jezebel, the Sidonian acting for King Ahab, single-handedly arranges what is in effect the murder of Naboth.

But why is there an actual story about the blasphemer in Leviticus 24? I suggest that it is an etiological composition, a story constructed long after the fact in order to justify the judgment on a blasphemer that is found in 1 Kings 21, despite the perversity of the situation. We might compare how the account of the Golden Calf in Exodus 32, also set in the time of Moses, is an etiological story designed to justify opposition to the much later installation of these calves in the time of King Jeroboam (1 Kgs 12:25–33).

In response to the Naboth episode, the author of Leviticus constructed a story about an actual blasphemer, which he set back in the time of Moses (Lev 24:10–23). His aim was to explore the perverse treatment of Naboth. One concern was to uphold, despite the criminality involved, the correctness of the judgment against blasphemy in 1 Kings 21. He viewed Naboth as if he was guilty of blasphemy as charged and asked whether the right verdict was arrived at. The ghastly incident does, after all, raise the question as to what the appropriate punishment for a blasphemer should be. Even the place of execution, outside Naboth's city (1 Kgs 21:13), is confirmed as correct, because Moses has the blasphemer stoned outside the camp (Lev 24:23).

To be sure, the lawgiver also reacted against what occurred in 1 Kings 21. When the rule in Lev 24:14 says that "all who heard him [the blasphemer]" are to stone him to death, it refers to those who are actual witnesses to the blasphemy. The clause may well be reacting against the crooked means by which in the story in 1 Kings 21 the court arrived at its verdict of a capital penalty for blasphemy. No member of the court in Jezreel heard Naboth blaspheme; only two disreputable types turned up

and testified falsely that they had heard him. The crookedness involved in the use of court procedure against Naboth explains why, when rendering its rule about an incident involving actual blasphemy in the time of Moses, Leviticus 24 focused so much on procedure.

From a different angle, we might view the story in Leviticus 24 as Moses addressing the issue of procedure against a blasphemer precisely because he anticipated the horrendous perversion of justice against Naboth. In "knowing" what was going to happen, he carefully pursued the following questions. In claiming that Naboth blasphemed, did those in Jezreel who charged him with the offense proceed properly against a blasphemer, first, in the way in which they convicted him and, second, in the way they had him then taken out of the city to be stoned to death (1 Kgs 21:10)? The adherence to lawfulness in the pursuit of lawlessness had to be evaluated and affirmed. The author of Leviticus 24 had all the more reason to be concerned about actual instances of blasphemy because the actions of Eli's sons when abusing the people's offerings, David's when obtaining the showbread, and Doeg's when slaughtering the priests and the inhabitants of Nob also raise the issue. Each of these events he paid attention to in his preceding rules.

What the author of Leviticus 24 did, then, was to put the stamp of Moses on a case of blasphemy by having it occur in the wilderness period. The incident involves a dispute between an Israelite and another man who has an Israelite mother but a foreign Egyptian father. The father is Egyptian because the episode purportedly occurs on Israel's journey out of Egypt. In the course of the dispute, the son of the Egyptian father and the Israelite mother blasphemes the name of Yahweh. For the priestly lawgiver, blaspheming God's name presumably constituted a total undermining of the idea of holiness. The later actions of Doeg and Jezebel similarly undermine it. Having been goaded into action by Saul in response to David's activity at the Nob sanctuary, Doeg proceeds to kill priests of an Israelite sanctuary and the inhabitants of the town, Nob, where the sanctuary is located. That is, Doeg does not hesitate to treat sacred personnel and their associates contemptuously in order to kill innocents. Jezebel is similarly culpable when, on behalf of Ahab, she falsely attributes blasphemy to Naboth. Like the son of the Egyptian, Doeg and Jezebel are also foreigners who participate in Israelite affairs, and all three are guilty of blasphemous conduct.[6] In his judgment, the lawgiver condemned foreign residents as well as native Israelites for committing blasphemy (Lev 24:16).[7]

The write-up of the incident in Leviticus 24 has Moses take the case of the blasphemer directly to God. The reason is that the narrator is intent on setting a paradigm for the future. No local, earthly tribunal can ever be trusted to decide cases of blasphemy because of the corrupt character of the court that pronounces a sentence

of death against Naboth. Such is the blight engendered by this one incident that it affects all instances in which the issue of blasphemy comes to the fore. In the Deuteronomic law about someone witnessing falsely that a fellow Israelite has committed blasphemy, there is the same bypassing of the local courts with the instruction that "both the men, between whom the controversy is, shall stand before Yahweh, before the priests and judges, which shall be in those days" (Deut 19:17). In all other cases at law, these local courts are supposed to hear them first, and only if found too difficult should they then go up "to the place which Yahweh thy God shall choose . . . unto the priests the Levites and unto the judge that shall be in those days" (Deut 17:8, 9).

The narrator in the book of Samuel not only links events that occur over succeeding generations, but he also shapes the write-up of one event so as to influence another. A major example is how what happens at Nob is viewed as the inevitable outcome of the earlier abuses at the Shiloh sanctuary. In light of the preceding analysis, a good deal more can be said about just how closely linked both developments are. The following three correspondences are especially noteworthy.

First, on account of their appetite the sons of Eli abuse the people's sacrifices at the Shiloh sanctuary. David, out of hunger, offends, in turn, against the showbread offering at the Nob sanctuary, with the priest Ahimelech also implicated. Second, the sons of Eli engage sexually with the female personnel at the Shiloh sanctuary. David, in turn, claims that he is entitled to the sanctuary food reserved for priests because he and his companions have refrained from sexual activity. To all appearances, so that he can receive the food in question, he seems to be lying. Third, at the Shiloh sanctuary the consequence of the abuse there is the loss of the Ark of the Covenant to the foreign group, the Philistines, and also the death of a mother, the wife of an Israelite priest, at childbirth. At the Nob sanctuary, Doeg, a foreigner, has a sacred tie to it but ends up destroying its personnel and other inhabitants of the city of Nob, including mothers and children. Many of these mothers are wives of the Nob priests. Like the Ark in the Israelite sanctuary, Doeg's special attachment to the Israelite sanctuary is benign, presumably a commendable state. But once outside of it, he, like the Ark, proves exceedingly violent. Both at Shiloh and Nob, then, we have the curious phenomenon whereby sanctity associated with the Israelite sanctuary, the Ark and Doeg's sacred attachment to it, is transformed into violence that wreaks havoc because of foreign affiliation, the Philistines' capture of the Ark and the Edomite Doeg's ruthless assault on the Nob sanctuary and its personnel.

The correspondences exist because the view is that divine justice requires that punishment match the offense. What happens at the Nob sanctuary has to reflect what occurred at the Shiloh sanctuary. Some of the more puzzling aspects of

David's and Doeg's presence at the Nob sanctuary become less so in light of the mirroring aspect of the punishment. We are not just dealing with historical facts but with the notion of retribution molding later events to correspond to earlier ones.

The innocent Naboth dies horribly because of the verdict of a corrupt court, and the chief perpetrators of the crime, King Ahab and Queen Jezebel, experience, in turn, grisly deaths for their offense (1 Kings 21, 22; 2 Kings 9). *In Leviticus 24, within the context of a story about the judgment on a blasphemer in the time of Moses, there appear rules about homicide, killing a beast, and assault that results in mutilating injuries for the victim* (Lev 24:17–23).

The rules in Lev 24:17–23 that are relayed as linked with the preceding capital sentence on the blasphemer read:

> And he that killeth any man shall surely be put to death. And he that killeth a beast shall make it good: life for life. And if a man cause a blemish in his neighbour; as he hath done, so shall it be done to him again. Breach for breach, eye for eye, tooth for tooth: as he hath caused a blemish in a man, so shall it be done to him again. And he that killeth a beast, he shall restore it; and he that killeth a man, he shall be put to death. Ye shall have one manner of law, as well for the stranger, as for one of your own country; for I am Yahweh your God. And Moses spoke to the children of Israel, that they should bring forth him that had cursed out of the camp, and stone him with stones. And the children of Israel did as Yahweh commanded Moses.

As well as the puzzle why a rule about blasphemy should follow a rule about the sanctuary lamp and the showbread, we confront another obvious puzzle: why in Leviticus 24 does the account of an incident about blasphemy and its accompanying rule inexplicably elicit an assortment of other rules about murder, damage to animate property, and personal injury?

Having noted the gravity of David's lie, which is tantamount to treating God and the king in a contemptible manner, the lawgiver turned to the lie in a later generation, Naboth's alleged blasphemy against God and king. The complication, however, is that the charge of blasphemy against Naboth is false. But it is precisely this complication that may explain the additional laws that the author of Leviticus 24 so bewilderingly incorporates—homicide, killing a beast, assault—into his report about the blasphemer.

The outcome of Naboth's rigged trial is his death by stoning outside his city and the complete tearing apart of his corpse by dogs. Later, in a most precise way, divine justice pays back both Ahab and Jezebel in his and her own coin. The death of each mirrors what happened to the grievously maltreated Naboth. Dogs lick the blood of

Ahab's dead body, and dogs tear apart Jezebel's corpse such that only her "skull, and the feet, and the palms of her hands" remain (2 Kgs 9:35).[8]

Although Naboth's trial is a travesty of justice, its verdict that blasphemy merits the penalty of death by stoning is, Moses judges in the case in his own time, correct. Only, as part of the penalty for the blasphemer, Moses does not incorporate the disgrace, the mutilation of the offender's body after death, that the narrator of the Naboth story highlights. That is an understandable omission because Leviticus 24 is not dealing with the circumstances of Ahab and Jezebel but with the less complicated example of the blasphemer in Moses's time. The rule lays out the consequence for blasphemy when it occurs among the people under more ordinary circumstances, when someone blasphemes during a brawl.

In what is a baffling problem that is well recognized by critics, Moses turns to topics quite unrelated to the offense of blasphemy—namely, homicide, killing a beast, and physical assault involving mutilation. How do we account for the appearance of these very different topics? If we assume that the lawgiver examined the nature of the punishments that befall Ahab and Jezebel, we can make some inroads on the problem. We might first note that Naboth is in fact not a blasphemer but the victim of murder. The truth about his fate might explain why the topic of homicide appears immediately after the pronouncement by Moses about stoning a blasphemer to death. In the narrative, both Ahab and Jezebel die for their crime against Naboth. Confirming that their fate is fully warranted, the lawgiver expressed his agreement in plain legal terms: committing murder calls for a capital sentence.

Why does the next topic (the one after homicide) concern the killing of a beast with its penalty that a live beast has to replace the dead one? This problem is much more difficult to address. The narrative about Naboth certainly does not raise the topic. Doeg's horrendous action at the Nob sanctuary does and may be relevant. His sacrilegious act incorporates blasphemy, homicide, and the killing of animals (1 Sam 22:19). We learn of no punishment that befalls Doeg, but in the incident about the innocent Naboth its narrator pays much attention to the nature of the punishment that overtakes the guilty Ahab and Jezebel. It is therefore worthwhile to look closely at the precise nature of the retribution that befalls both Ahab and Jezebel in the story.

As the narrator is at pains to show, each suffers the phenomenon of intensified death or aggravating capital punishment.[9] Not only does death justifiably come to the culprits, but disgrace is additionally heaped upon their corpses. The Deuteronomic lawgiver in his law about someone who falsely accuses another of the capital crime of apostasy pronounced a sentence that also calls for intensified death (Deut 19:15–21). The false accuser has to suffer not just "life for life" but in addition (after death) "eye for eye, tooth for tooth, hand for hand, foot for foot" (Deut 19:21). In

focus is also the offense against Naboth. The Deuteronomic lawgiver judged that the punishment for the offense of falsely accusing Naboth of apostasy is death followed by the systematic and dishonoring mutilation of the culprit's corpse, that is, life for life followed by the tearing apart of the cadaver, eye, tooth, hand, and foot.[10]

I suggest that the Leviticus lawgiver, like the Deuteronomic lawgiver, also noted how the punishment meted out to Ahab and Jezebel adds up to intensified death. Unlike the Deuteronomic lawgiver, however, he stood opposed to such a practice because of priestly sensitivity to the uncleanness that attaches to cadavers. In reaction to this form of punishment, he broke up the summary character of the formula "life for life, eye for eye, tooth for tooth, hand for hand, foot for foot," and reapplied it in the following manner. Negatively, he did not apply the first segment "life for life" to a homicide as we might have expected. Instead, he applied it to the killing of a beast. That is, in the case of a homicide, he simply demanded that the offender "be put to death" (Lev 24:17) and surprisingly refrained from using the language of the retaliatory formula "life for life." Yet he did use this language in regard to killing a beast, only "life for life" here signified that the offender has to replace the dead beast with a live one.

The Leviticus lawgiver then proceeded to apply the remaining part of the retaliatory formula, "eye for eye, tooth for tooth, hand for hand, foot for foot," to bodily wounding: "And if a man cause a blemish in his neighbour; as he hath done, so shall it be done to him again. Breach for breach, eye for eye, tooth for tooth" (Lev 24:19, 20). "Breach for breach" is the phrase that substitutes for the loss of hand and foot. It might just be relevant to note that, in ranging over the various incidents of blasphemous conduct in the traditions in Samuel, the lawgiver would have encountered the threatened assault of the worshipers at the Shiloh sanctuary (1 Sam 2:16). Equally relevant might be the brawl that prompted the blasphemy in Lev 24:10.

In any event, in each instance, in regard to the killing of a beast and in regard to the bodily wounding of another person, the Leviticus lawgiver redirected the formula of intensified death away from its focus on the dead to matters focused on the living. A live animal replaces the dead animal, and a living person's body, not a corpse, receives mutilating injuries. The lawgiver thus required the criminal law to impose disgrace on a living person by inflicting mutilating blemishes on his body. He presumably viewed it as a much less polluting form of action than cutting up a dead person's body.

Samuel's vision just before the sanctuary lamp goes out predicts the terrible demise of the priestly house of Eli, an outcome that occurs just after David con-

sumes the showbread at the Nob sanctuary. Rules about the two objects belonging to the sanctuary, markers of grim historical events, are set out in Lev 24:1–9.

The odd transition from the rules about the sanctuary lamp and the showbread (Lev 24:1–9) to the concern with blasphemy comes about as follows. Because of David's lie about King Saul and his analogous contempt for God in the matter of the showbread at the Nob sanctuary, the lawgiver scrutinized a more explicit instance in which blasphemy is the issue. Thus he turned to the example in 1 Kings 21 of how a court perverted procedure in putting Naboth to death for uttering contempt against King Ahab and God. Naboth's fate prompted the account in Leviticus 24 about how God originally instructed Moses in the procedure to be adopted for properly convicting a blasphemer.

The explanation for finding in Leviticus 24 the topic of homicide tied in with the topic of blasphemy is also the lawgiver's critique of the episode about Naboth in 1 Kings 21. A local judiciary executes Naboth for the offense of blasphemy, but in reality his death constitutes murder. The juxtaposition of the two topics in Leviticus 24 is incongruous only if we remain unaware of the background issue out of which the two juxtaposed rules have been forged.

As for the two additional topics of killing a beast and assaulting a person in Leviticus 24, a possible explanation for their attachment to the rules about blasphemy and homicide is that the lawgiver noted how in, the cases of Ahab and Jezebel, the full formula of exact retaliation applied to their deaths. In each instance, it was not just "life for life," but, additionally, "breach for breach, eye for eye, and tooth for tooth." The lawgiver's priestly sensitivities were such, however, that he reacted negatively to the idea and practice of intensified death because this kind of execution entailed unacceptable contact with a corpse. Dead bodies are ever so polluting in the priestly realm. So our lawgiver applied the life-for-life aspect of the formula to compensation for killing a beast and the bodily damage part to the punishment for those who cause bodily wounding. He took up and changed the focus in the narrative on what happened after death in the cases of Naboth, Ahab, and Jezebel. He applied the penalty of nonintensified death to both a properly convicted blasphemer and a murderer but applied the elements of the eye-for-an-eye formula to lesser offenses. Thus he redirected the formula of aggravating capital punishment to matters affecting the living, a handing over of the live animal to replace a dead one, and the infliction of injuries on a live person's body. He had, as it happened, in contexts involving issues of holiness, examples of animals being killed and persons being physically assaulted: the animals at the Nob sanctuary and the worshipers at the Shiloh sanctuary respectively. He also had the example of the brawl in the immediately preceding matter of blasphemy.

CHAPTER NINE

The Year of Jubilee

Leviticus 25

> After the doings of the land of Egypt, wherein ye dwelt, shall ye not do.

Despite confounding interpreters as to its original meaning, the institution of the Year of Jubilee has captured the imagination of religious thinkers and political reformers down through the centuries. Going back some two and a half thousand years, the law establishing it continues to stimulate models for liberation from oppressive forces, for reconciliation, and for new beginnings.[1]

The institution in Lev 25:2–13 reads:

> When ye come into the land which I give you, then shall the land keep a Sabbath unto Yahweh. Six years thou shalt sow thy field, and six years thou shalt prune thy vineyard, and gather in the fruit thereof; But in the seventh year shall be a Sabbath of rest unto the land, a Sabbath for Yahweh: thou shalt neither sow thy field, nor prune thy vineyard. That which groweth of its own accord of thy harvest thou shalt not reap, neither gather the grapes of thy vine undressed: for it is a year of rest unto the land. And the Sabbath of the land shall be meat for you; for thee, and for thy servant, and for thy maid, and for thy hired servant, and for thy stranger that sojourneth with thee. And for thy cattle, and for the beast that are in thy land, shall all the increase thereof be meat. And thou shalt number seven Sabbaths of years unto thee, seven times seven years: and the space of the seven Sabbaths of years shall be unto thee forty and nine years. Then shalt thou cause the trumpet of the jubilee to sound on the tenth day of the seventh month, in the Day of Atonement shall ye make the trumpet sound throughout all your

land. And ye shall hallow the fiftieth year, and proclaim liberty throughout all the land unto all the inhabitants thereof: it shall be a jubilee unto you; and ye shall return every man unto his possession, and ye shall return every man unto his family. A jubilee shalt that fiftieth year be unto you: ye shall not sow, neither reap that which groweth of itself in it, nor gather the grapes in it of thy vine undressed. For it is the jubilee: it shall be holy unto thee; ye shall eat the increase thereof out of the field. In the year of this jubilee ye shall return every man unto his own possession.

I will argue that the Sabbatical cycle in Leviticus 25, with its climactic Year of Jubilee, becomes intelligible once we relate it back to the developments in Egypt at the time of the famine there. The policy adopted by the pharaoh in line with Joseph's counsel is the key to how the Israelite institution came to be formulated. How the formulation chimes with what we know of comparable institutions in the ancient Near East will also come under scrutiny.

Rule	*Narrative*
Lev 25:2–13. Seven sabbatical years of no harvests interspersed over a period of forty nine years leads to a climactic fiftieth year when there is again no harvest, but during the fallow years everyone continues to be fed. In the fiftieth year, every enslaved Israelite is freed and every Israelite who has sold ancestral property returns to it.	Genesis 37–50. Seven years of plentiful harvests in Egypt are followed by seven years of famine but Joseph's policy enables everyone to be fed. In a climactic year of the famine, every Egyptian is enslaved and each gives over his ancestral property to the pharaoh.

ANCESTRAL PROPERTY AND THE JUBILEE YEAR (LEVITICUS 25)

The switch from the case of the blasphemer in Lev 24:10–23 to the concern with an Israelite's ancestral property in Leviticus 25 is far from clear when we ask why one rule follows the other. The move becomes intelligible, however, once we observe the lawgiver's scrutiny of issues in the influencing narratives. Naboth's vineyard is an inheritance from his forefathers. He is free to sell it to King Ahab but declines to do so on account of its venerable lineage (1 Kgs 21:3, 4). His stance, I submit, has invited the lawgiver's interest into the origin of such an arrangement because the story acutely raises the issue of the propriety of buying and selling ancestral property. Leviticus 25 deals with precisely this issue. There we find a focus on the question as to whom the land originally belongs and an answer that attempts to express the notion that, for an Israelite, the land in some sense belongs to Yahweh. Like Naboth,

an Israelite is free to sell his ancestral property, but certain rules restrict the right in line with the idea that, again like Naboth's property, it is his father's God-given inheritance.

In keeping with his standard procedure, the lawgiver turned to the earliest instance when the matter arises for the Israelites, to, as it happens, events experienced by the first family of Israel. Thus the Israelites first encounter the issue of the acquisition of ancestral land when, under the direction of the Israelite Joseph and Yahweh his god, Pharaoh takes over the ancestral land of the Egyptians among whom the Israelites are living (Gen 47:18–20). It is this outcome that determines how the order of landholdings for the Israelites differs markedly from the one worked out for the Egyptians by Joseph.

SURVEY OF THE INTERPRETATION OF THE BIBLICAL JUBILEE SINCE 1950

Bewilderment about the meaning of the laws of the sabbatical year and the related Jubilee year in Leviticus 25 is understandable.[2] Their unreal aspect is manifest. Every seven years there is to be no sowing or harvesting throughout the entire land. Every fiftieth year, the Year of Jubilee, one year after the seventh sabbatical year, the land has again universally to lie fallow. In prospect, then, are two years in succession of fallow conditions that deprive the entire population of its normal source of food. If these rules were actually observed, how then would the people eat?

Equally baffling are the requirements that all Israelite slaves must be released from servitude when a Jubilee year comes round and that every Israelite must return to his ancestral land. Commentators are quick to point to the problems. Unlike the Exodus and Deuteronomic rules on the release of slaves, which have them released after six years of service, the Leviticus law could have a slave serve for forty-nine years. In effect, those who became slaves just after a Jubilee year would never experience freedom.[3] As for the requirement that Israelites have their ancestral property restored to them at the Jubilee, we can only imagine the enormous upheaval that would result because of the relatively complex economic conditions that the laws take for granted. Roland de Vaux assumes that they presuppose conditions during the monarchical period in the history of ancient Israel, and states, "The practical implementation of the policy meets with insuperable obstacles."[4]

Little wonder, then, those and other critics view the laws as "surrealistic" in the sense that they are impossible to observe.[5] Typical are the following responses to the improbable aspects of the different rules in Leviticus 25. The lawgiver was given to artificial theorizing and hyperbole.[6] He showed an optimism that "defies the irregu-

larity of drought conditions which occur on the average of every two to four years."[7] If enforced, these laws would have crippled a society's economy: "Economically a single universal fallow would have been unsound if not disastrous."[8]

To come to terms with the baffling nature of the laws, some critics regard them as utopian. However, utopian is hardly the term to use when a law requires deprivation to be visited upon an entire population at regular intervals. They speculate that the lawgiver wanted the Israelites on their return from exile in Babylon (fifth century B.C.E.) to revert to a system of landholdings that supposedly existed before the time of the monarchy (more than five hundred years earlier).[9] Another very common response is to explain away the unreal aspect of the laws. For example, a universal fallow year is not intended. Individual Israelites can set up their seven-year cycles in keeping with their own agricultural needs: "The Sabbath-year 'fallow' was particular and rotating, not simultaneously universal, at least primitively, and probably also in Lv."[10] Or, contrary to this view, a universal year is intended but not on all of the land. In line with standard agricultural practice, every year some parts of the field would be left fallow, but neighboring areas would still be cultivated. G. C. Chirichigno, who upholds this view, has difficulty in arguing why the seventh year is so special. He postulates a link-up of the sabbatical year with an "earlier Sabbath institution which had both social-humanitarian and religious-cultic connotations" from the outset. He does not take stock of North's point that an agricultural fallow without plowing would be useless and even harmful. If certain fields were left fallow every year, they would still have to be plowed over and doing so would go against the intent of the law.[11]

Again, it is common to argue that the Jubilee year is not the fiftieth year but is really identical to the previous forty-ninth.[12] By merging the two years, those critics who adhere to this view lessen the unreality of the Israelites having two years in a row given over to fallow conditions on the land. As for the release of slaves, one common rationalization is to claim that the release law of Deuteronomy, in which a slave can choose to become a permanent part of his master's household, still applies. The Leviticus law is thinking solely of those slaves who choose not to be manumitted in their seventh year of service but opt to be permanent slaves of a master. The permanence of that slave's status is then, in fact, not unending and lasts only until the Year of Jubilee.[13] A major influence on those scholars who regard the laws in Leviticus 25 as intended for real life is an institution that is found in the Near East. Albeit at sporadic intervals in contrast to the regularized Israelite institution, a ruler might proclaim a *misharun*, an act of "justice" by which he releases debt-slaves and land with a view to reordering economic life in his community.[14] For those scholars who appeal to this background, the Leviticus lawgiver set up an institution that in some way

resembles the Near Eastern example: "The biblical laws of the Jubilee year thus incorporate Near Eastern legal institutions of great antiquity."[15]

Critics sometimes express uneasiness with their rational attempts to introduce coherent explanations for the laws. Robert North writes, "Obviously our interpretation runs counter to the surface-sense of certain expressions of the sacred text."[16] In fact, the common tendency among all those commentators is to explain away or even to disregard the impractical or implausible elements of the rules, which, as North for one well notes, are nevertheless manifestly expressed in the text.

Joseph's policy for coping with the seven-year famine in Egypt enables all the Egyptians to be fed but also leads to their enslavement and the loss of their land to the pharaoh (Genesis 47). *The rule, in turn, has seven sabbatical years of no harvests, everyone being nonetheless fed, and then the Jubilee year, also without a harvest but everyone again fed. In the Jubilee every Israelite slave is freed and alienated land returns to its Israelite ancestral owner* (Lev 25:2–13).

I wish to take a different approach in attempting to understand the laws in Leviticus 25. Their oddness is the crux of the matter. The aim of the rules is to trigger historical memory, and precisely the oddness of the provisions does just that.[17] The sabbatical year and the integrally linked institution of the Year of Jubilee function, I suggest, as a means of commemorating dramatic events in Egypt especially during Joseph's time there. Like many other biblical laws, for example, the Passover festival and the rest from toil every seventh day, the laws of the Sabbath for the land and the Year of Jubilee recall formative events at the beginning of the nation's history in Egypt.

The texts that spell out the two rules about the Passover and the seventh-day rest explicitly associate these two institutions with the oppression of the Israelites in Egypt (Exod 12:14–27; Deut 5:12–15; 16:1–8). The rules about the sabbatical and Jubilee years also mention this same period of oppression in Egypt, but they do not openly cite the other major period of time in focus, namely, the related preceding era, Joseph's time, when a severe famine afflicts the land and eventually leads to the enslavement of the Israelites. As I have already pointed out, it is characteristic of the presentation of the laws of Moses that he openly refers to the past only when the event, the slavery in Egypt, for example, takes place in his own lifetime. The fictional character of the laws with their attribution to a legendary figure, Moses, accounts for this reticence.

Every seventh year the land experiences famine-like conditions. Although critics are obviously aware of this aspect, it does not engage their attention because they focus on God's ownership of the land as the important idea underlying the Sabbath

rest (an idea that is, in fact, an odd one).[18] The barren conditions are brought on not by nature but by people's ceasing to work the land. Indeed, not only are sowing and reaping prohibited, even the natural aftergrowth of the previous year's harvest may not be taken (Lev 25:5). Yet, according to the rule, everyone in the land is fed during the sabbatical year. The reason is that in the preceding sixth year the deity causes the harvest to be so bountiful that supplies for three years are available from it (Lev 25:2–7, 20–22). The bumper crop is, I would point out, like those from the seven years of plenty in Egypt. Neither the Israelite harvest in the sixth year nor each of the seven Egyptian harvests is a normal harvest. In each instance, the land produces abundant food to feed the whole population during the famine or fallow years. In Genesis, God directs Joseph to store the harvests (Gen 41:37–40). In Leviticus, the explicit statement that old food will be eaten contains the implicit idea that the crops provided by God during the sixth year will be stored and eaten for three years (Lev 25:21, 22).[19]

In formulating a law about some matter, the biblical lawgiver typically turned to a first-time occurrence of a problem in the nation's history to see how it was resolved. The first example in the history of the nation of a famine overcome is the one in Egypt at the time of Joseph.[20] The famine that afflicts the land threatens starvation, but in the event that does not happen. There are, in fact, seven successive years of deprivation in Egypt, but there is no problem in feeding the Egyptians during these seven years. Joseph's divinely directed policy of storing grain from the seven bumper harvests that precede the years of famine ensures that all in the land are fed (Gen 41:28).

There are, however, economic and social upheavals brought about by the famine. Genesis 47 singles out a two-year climactic period, presumably at the end of the famine. During the initial year of this two-year period, the Egyptians first give up all their money and then their livestock to pay for the food they receive that year. The transaction with the money will not have differed from the ones to obtain food in the preceding years. The bartering away of the animals, however, heralds a major change in prospect. The next year indeed proves momentous and alters the lives of the Egyptians forever. With their money and their livestock all gone, they have to give over their "bodies and their lands," this time to the pharaoh in order to buy food (Gen 47:18, 19). The result is that all the Egyptians lose their private landholdings, which become the property of their king, and they also become permanent slaves to him. From this point on, once the famine is over, the Egyptians receive seed from the pharaoh to sow the land and in return, at harvesttime, they are to keep four-fifths for themselves and give him the remaining fifth.

In Leviticus 25, the lawgiver introduced the Jubilee year by counting seven sabbatical years, that is, a period of forty-nine years: "And thou shalt number seven Sab-

baths of years unto thee, seven times seven years" (Lev 25:8). One of the lawgiver's aims in specifically highlighting the seventh of the sabbatical years was to introduce the next year, the fiftieth, as a climactic occasion, the Year of Jubilee. That year, like the sabbatical year the year before it, is also to be a fallow year for the land. Just as the narrator of Genesis 47 focuses on a two-year climactic period of time, so did the lawgiver.

In the law, during the first year of this two-year period, the forty-ninth year, the people experience famine-like conditions on the land but nonetheless have plenty to eat. After the forty-ninth year, which is the seventh of the sabbatical years, the Israelites have now experienced seven years of famine-like conditions. The seven sabbatical years constitute a parallel to the seven years of famine in Joseph's Egypt.[21] Not only are there seven, but also food is divinely made available for each of the years to provide for the population. As owner of the land, God gives food to everyone at no cost to them, unlike the pharaoh and Joseph, who provide food to the Egyptians in return for increasing amounts of valuable assets—money, cattle, land, and their own persons.

The next year, the Year of Jubilee, produces its own parallel to the second year of the climactic two-year period in Joseph's Egypt. Like the developments that take place in Egypt, the events of the Jubilee year entail major social and economic changes in Israel. During this fiftieth year, all Israelites are to return to their ancestral landholdings and all Israelite slaves are to be freed from any service to a human master. The outcome is in striking contrast to the Egyptian situation when all the Egyptians lose their landholdings and become enslaved to the one human master, the pharaoh.

Evidence that the lawgiver was looking at the Israelites' history in Egypt when formulating his laws comes from noting that he explicitly drew attention to that history. To explain why Israelites should not experience permanent enslavement to any human master, the lawgiver stated that the Israelites became slaves to Yahweh when he brought them out of Egypt (Lev 25:42, 55). The period of time that the lawgiver has in mind at this point is in the years succeeding the famine. Then a new pharaoh appeared ("Now there arose up a new king over Egypt, which knew not Joseph"; Exod 1:8), who enslaved the descendants of Jacob's family. It transpires, then, that the Israelites themselves, like the Egyptians in Joseph's generation, become enslaved to the pharaoh. Yahweh, however, ensures that in no way are the Israelites to share the fate of the Egyptians because, by bringing about the exodus from Egypt, he causes them to be released from their service to the pharaoh. The Israelites, instead of being slaves to Pharaoh, become enslaved to their divine master, Yahweh. The Joseph narrative itself, we might note, takes under review both the time of the

famine and the later period of Israel's enslavement to the later pharaoh: "I will go down with thee into Egypt and I will also surely bring thee up again" (Gen 46:4).

We can, I think, only comprehend the laws in Leviticus 25 by setting them against the background of Israel's time in Egypt.[22] Consider its concern with slavery. The Israelites become slaves to their god, but there is no bar at the human level to prevent one Israelite from becoming enslaved to another Israelite. The one effect of the notion that Yahweh is Israel's master is that, if an Israelite does become a slave, his Israelite master should, whatever it might mean in practice, regard him less as a slave and more as a hired servant or a sojourner. By contrast, the Egyptians became enslaved to their human ruler, and hence one Egyptian could not become a slave to another Egyptian.

Or consider the concern with landholdings in Leviticus 25. The lawgiver claimed that the land is Yahweh's. That is why at the human level land can be bought and sold but none of it can be sold in perpetuity (Lev 25:23). The contrast is with how, because of the famine, a human ruler in Egypt, the pharaoh, becomes the owner of the land, with the implication that no Egyptian can ever again buy or sell any of it. The odd idea of Yahweh as the owner of the land comes about in order to draw a contrast with the pharaoh's ownership of the land of Egypt.

The account in Genesis 47 of how the Israelites, that is, Jacob and his family, fare at the time of the famine in contrast to how the Egyptians fare further illuminates aspects of the laws in Leviticus 25. Whereas the Egyptians become wholly dependent for their livelihood on the pharaoh, Jacob's family receives from him a holding in the land of Goshen "in the best of the land" of Egypt (Gen 47:6). The term used for their landholding is *'aḥuzzah* (Gen 47:11, 27). The lawgiver used the same term when he has the Israelites in the Jubilee year return to their landholdings (Lev 25:10, 13, 41). Moreover, Jacob and his family are sojourners in Egypt and some of them become hired servants to the pharaoh (Gen 47:4, 6). In the law in Lev 25: 40, which will be analyzed more fully in the next chapter, an Israelite who becomes dependent on another Israelite for his survival serves not as a slave but as a hired servant and as a sojourner because they are slaves to their ruler Yahweh.

In light of my claim that the Leviticus laws about the sabbatical and Jubilee years hark back to Egyptian history in Joseph's time, it is worth noting how commentators evaluate the narrative in Genesis 47 about the contrast between the Israelites and the Egyptians at the time of the famine. J. B. Skinner observes, "The interest of the biblical account [Gen 47:18–27] is etiological. The Hebrews were impressed by the vast difference between the land-tenure of Egypt and that under which they themselves lived."[23] B. A. Levine and G. J. Wenham actually compare developments in Genesis 47 with some of the rules in Leviticus 25 but do not explain why they do

so.[24] In their assessments, these critics, implicitly in one instance, explicitly in the other two, are contrasting, rightly in my view, the contents of Genesis 47 with the substance of the rules in Leviticus 25.

There are exceptions when it comes to the sale of land in both the Egyptian and Israelite situations, but these exceptions prove revealing. The priests in both places are treated differently from the general population. The Egyptian priests retain their lands because they have a special relationship with the pharaoh (Gen 47:22, 26). Likewise the Israelite priests, the Levites, are to have a perpetual possession in the land of Canaan because they have a special relationship with Yahweh. The fields of common land, for instance, that belong to the Levitical cities cannot be sold (Lev 25:34).

I wonder too whether the links that exist between the laws in Leviticus 25 and Genesis 47 support the Massoretic reading of Gen 47:21. The latter text is commonly read in line with the different versions to mean that Joseph made slaves of the people. But the Massoretic text reads: "And as for the people, he removed them to cities [not he enslaved them] from one end of the borders of Egypt even to the other end thereof." The MT's reference to "cities" receives support from the following consideration.

Just before the rule favorable to the Levites in Lev 25:32–34 and the equally favorable concessions to the Egyptian priests in Gen 47:22 , we find a focus on cities in each of the texts (if we accept the MT in Gen 47:21). Whereas fields are treated one way in each place, cities are treated in another. In Egypt (in Genesis 47), the population of the countryside is moved to cities, the implication being that, after the land is again productive, the people will travel to the fields from the cities to work them. A further implication is that unlike fields that are owned by the pharaoh, the Egyptians can own their own houses within these cities. In Israel (in Leviticus 25), a person purchasing a house in a walled city becomes its permanent owner if the seller has not redeemed it within one year of his selling it. Unlike a field, the house is not subject to a release in the Year of Jubilee. Houses in unwalled cities, on the other hand, come under the same rules as fields in that they are subject to a return to their original owner at the Jubilee. These houses in villages exist, no doubt, to enable their residents to work in the neighboring fields.

The occasion of the Jubilee year is, I submit, to celebrate the difference between the Israelites and the Egyptians in line with the lawgiver's declared aim to set out a policy for the Israelites that contrasts with Egyptian policy. Negatively, the lawgiver's programmatic statement is: "After the doings of the land of Egypt, wherein ye dwelt, shall ye not do" (Lev 18:3), and, positively, "Wherefore ye shall do my statutes, and keep my judgments, and do them" (Lev 25:18). Unlike the Egyptians, the Israelites

are to retain their landed possessions. Unlike the Egyptians, they are not permanently to become slaves to any human master, because in some sense they are slaves to Yahweh. Unlike the Egyptians, whose entire population becomes enslaved within one year, every fiftieth year the entire Israelite population is to be free from enslavement. The background to each of the laws in Leviticus 25 is the history of the developments in Egypt as laid out in Genesis 47.[25] For example, the detailed laws about how free individual Israelites should deal with one another in matters of money, land, and houses are necessary to set up the opposing Israelite legal order to the one prevailing in Joseph's Egypt.[26]

KINDLY TREATMENT OF ONE ISRAELITE BY ANOTHER

I shall reserve for fuller discussion in the next chapter the rules about slaves in Leviticus 25 but comment here about some related rules. In Lev 25:35–37, we have:

> And if thy brother be waxen poor, and his hand faileth with thee, then thou shalt strengthen him. That he may live with thee as though a resident alien or sojourner. Take thou no usury of him or increase, but fear thy God, that thy brother may live with thee. Thou shalt not give him thy money upon usury, nor lend him thy victuals for increase. I am Yahweh thy God, which brought you forth out of the land of Egypt, to give you the land of Canaan, and to be your God.

These Mosaic injunctions can be directly related to how Joseph treated his brothers in Egypt. The Israel that Moses anticipates is to resemble Joseph's Egypt, be it in comparable or contrasting ways. In the rule, an Israelite is to maintain his brother if he becomes poor. We should recall how Joseph helps to settle his brothers in the land of Goshen and enables them to live as sojourners or resident aliens who become hired servants in Pharaoh's service. Further, in the rule, the Israelite is not to profit in taking money from his fellow Israelites who are reduced to dwelling as if mere aliens in their own country, nor is he to profit when providing them food. The link between law and narrative explains the curious notion in the rule that sometimes Israelites in their own country are to be regarded as resident aliens. In Egypt, that odd relationship is the one that prevails between Joseph and his estranged brothers. Putting aside their estrangement, together they constitute the first Israelites.

The rule also readily conjures up the situation in Egypt when in their straitened circumstances the brothers pay to Joseph money for grain. He surreptitiously puts their money back in their grain sacks. On the face of it, the action represents gain for them in a transaction, but Joseph is, in fact, oppressing them by having them recall their attempt to sell him into slavery. They had wanted to sell Joseph, the sheaf

of grain in his dream, for money. When he puts money in their grain sacks, he was reminding them of the money they originally sought for attempting to sell him. The topsy-turvy transaction prompts the lawgiver's focus on both profit involving money and profit involving money for food.

THE ENSLAVEMENT OF AN ISRAELITE TO A WEALTHY SOJOURNER OR ALIEN WHO RESIDES IN ISRAEL

Developments in the Joseph story similarly illumine the rules in Lev 25:47–55, which read:

> And if a sojourner or resident alien wax rich by thee, and thy brother that dwelleth by him wax poor, and sell himself unto the resident alien or sojourner, or to the stock of the resident alien's family, then after that he is sold he may be redeemed again; one of his brethren may redeem him. Either his uncle, or his uncle's son, may redeem him, or any that is nigh of kin unto him of his family may redeem him; or if he be able, he may redeem himself. And he shall reckon with him that bought him from the year that he was sold to him unto the year of jubilee. . . . And as a yearly hired servant shall he be with him; and the other shall not rule with rigour over him in thy sight. And if he be not redeemed in these years, then he shall go out in the year of jubilee, both he, and his children with him. For unto me the children of Israel are servants; they are my servants whom I brought forth out of the land of Egypt: I am Yahweh thy God.

The lawgiver again transferred features he finds in the Egypt of the Joseph story to the rules that should be applied within Israel. Joseph is a resident alien or sojourner in Egypt who does uncommonly well in his foreign abode and waxes prosperous. The native Egyptians become so poor that they have to sell themselves to Joseph. Turning to some comparable situation in Israel, the lawgiver focused on a wealthy sojourner to whom a native Israelite has sold himself because he has fallen on hard times.[27] The Egyptians in Genesis become slaves in their own country, but in the rule, within Israel, the Israelites being Yahweh's servants have to serve as hirelings, not as slaves, until their release in the Year of Jubilee.

The rule also has in focus the fate of Jacob's extended family after Joseph's death when it experienced enslavement in Egypt under a pharaoh "who knew not Joseph" (Exod 1:8). That pharaoh treated the Israelites "with rigor" (Exod 1:13, 14), and the rule insists that within Israel, after it acquires the land of Canaan, no such harshness is to exist in any economic relationship between a foreigner and an Israelite in his service.

Particular developments in the Joseph story are relevant to details in the rule.

After Benjamin is framed for the theft of Joseph's divining cup, Judah offers himself in exchange for his brother's enslavement. Judah says, "Now therefore, I pray thee, let thy servant abide instead of the lad a bondman to my lord; and let the lad go up with his brethren" (Gen 44:33). The story thereby introduces the theme of one brother paying off another's debt. The rule, in turn, states, "One of his brethren may redeem him." To be sure, the circumstances in the story are more extreme than the monetary redemption in the rule, but a move from the extraordinary to the more ordinary is the one the lawgiver consistently made.

The rule states that an Israelite who has to sell himself to a sojourner or resident alien may redeem himself. It seems an unlikely possibility in the ordinary way of things, but, in the story, Joseph is himself a slave in Egypt who prospers and dramatically changes his status. Even more to the point, some of his brothers also do well because they become hired servants to the pharaoh (Gen 47:6). What again appears to be going on in the rules is the lawgiver's extensive scrutiny of the role of Joseph as a slave, the role of the Israelites first as sojourners in Egypt and then as slaves there, and the role of the oppressed Egyptians in relation to the successful Joseph in their own country. For example, the sojourning sons of Jacob do well in Egypt while the native Egyptians become slaves. The lawgiver looked at the events in Egypt from the Egyptian perspective and used it to distinguish the Israelites from them. He has then formulated a rule that applies within Israel: an Israelite who has to sell himself to a sojourning foreigner may, as his hired servant, do sufficiently well to purchase his independence.

THE DAY OF ATONEMENT AND THE JUBILEE

Further links between Leviticus 25 and the narrative about Joseph also prove illuminating. The announcement of the Jubilee year takes place on the tenth day of the seventh month, the day when atonement is made for all the people of Israel because of their sins (Lev 25:9). Critics have been greatly puzzled by this linkage. North speaks of an insoluble problem in the clash between Lev 25:10 as a joyful day of return to one's home and family, which is marked by a trumpet blast, and the solemn Day of Atonement. Nathaniel Micklem writes, "This trumpet is to be sounded, very curiously, on the Day of Atonement which is the great penitential day of the Hebrew calendar."[28]

In light of the link between the law and Joseph's history, however, the decision to announce the Year of Jubilee on the Day of Atonement is singularly appropriate. The latter ritual of reconciliation recalls a crucial moment in the history of the first family of Israel (see chapter 3). Exactly two years into the famine in Egypt, Joseph

effects reconciliation with his brothers (Gen 45:1–15). He then goes on to forgive them their original offense against him (Gen 50:15–21). Their father Jacob, who himself suffers grievously because of the offense, initiates the process of forgiveness (Gen 50:16). The entire family of Israel as constituted at that time is therefore involved in seeking expiation for wrongdoing. It is precisely in this context that the inspiration for the institution of the Jubilee arises. The new order for the Egyptians in Genesis 47, when Joseph enslaves all the Egyptians and acquires their lands for the pharaoh, prompts a contrasting new order for the Israelites when they acquire their own land. That new order comes to expression in the institution of the Year of Jubilee. It is consequently, as the law in Lev 25:9 makes clear, most apt that the reconciliation of all Israelites with one another should precede the announcement of the Year of Jubilee.[29]

WARNINGS, PROMISES, AND DEDICATIONS TO YAHWEH (LEVITICUS 26 AND 27)

The influence of Joseph's policy for the Egyptians is helpful in addressing other puzzles in Leviticus 26 and 27. According to Genesis 47, the Egyptians finally settle down to a life of serfdom under the pharaoh. He gives the serfs seed to sow the land and at harvesttime they are to take four-fifths for themselves and hand over a fifth to the pharaoh. The concluding two chapters of Leviticus 26 and 27 set out, it would appear, the corresponding arrangement for the Israelites in their new land, the land of Canaan. God is their pharaoh, so to speak, and they are his subjects.

Leviticus 26

Two opening rules of Lev 26:1, 2 first take into account the transition from Israel's life in Egypt to its new life in the land of Canaan. They read: "Ye shall make you no idols, neither rear you up a standing image, neither shall ye set up any image of stone in your land, to bow down unto it; for I am Yahweh thy God. Ye shall keep my Sabbaths, and reverence my sanctuary: I am Yahweh." The prohibition against the cultic objects of Canaanite religious life anticipates Israelite apostasy in Canaan. The observance of the Sabbaths is to the end that the Israelites recognize what Yahweh did for them in Egypt and how he will deal with them in Canaan in ways that will recall their experience in Egypt. Negatively, for example, the Israelites' nonobservance of the sabbatical years will lead to the desolation of their land because they will have been taken captive abroad. In these grim circumstances the land will have

a permanent rest, which will constitute a punishment for their failure to observe the sabbatical rule (Lev 26:34, 35).[30]

Leviticus 26 also outlines the positive relationship the Israelites can have with Yahweh. If they show allegiance to his governance, he will guarantee their harvests. Yahweh states: "If ye walk in my statutes, and keep my commandments, and do them; Then I will give you rain in due season, and the land shall yield her increase, and the trees of the field shall yield their fruit. And your threshing shall reach unto the vintage, and the vintage shall reach unto the sowing time; and ye shall eat your bread to the full, and dwell in your land safely" (Lev 26:3–5).[31] Like the pharaoh providing seed for all the Egyptians (Gen 47:23), Yahweh will provide food for the Israelites, even attending to the initial process of the growth of the seed itself. Yahweh's provision will also be reminiscent of the superabundance of food that he supplied during the seven years of plenty in Egypt. The specific process of threshing grain will continue well beyond the regular threshing season, into the time of the vintage in late summer, and even into the time of sowing new seed the following spring.

Leviticus 27

Critics assume that the peroration calling for Israelite fealty to Yahweh in Leviticus 26 concludes the book of Leviticus and that the rules in Leviticus 27 about the dedication of a person, animal, or land to Yahweh constitute some kind of addendum.[32] The matter is otherwise, however, if the lawgiver was laying out the Israelite equivalent to the concluding developments in Genesis 47. The Year of Jubilee explicitly comes into reckoning in the rules in Lev 27:17, 18, 21, 23, 24, one indication that they do not constitute an appendix but follow on naturally because of the lawgiver's focus on Genesis 47. In the narrative, Pharaoh acquires both the Egyptians' possessions and their persons, and he enters into a transaction with them when he provides seed to sow in the fields that are again productive. The rules in Leviticus 27, in turn, address issues about Yahweh's claims to the possessions and persons of the Israelites and the transactions attendant on such claims.

For the Leviticus lawgiver, the figure of Yahweh corresponded to the figure of the pharaoh. The lawgiver was alert, however, to the obvious fact that, in translating this correspondence into real life, Yahweh has to be perceived differently from the pharaoh.[33] Yahweh does not have earthly power over the Israelites in the same way that the pharaoh has over the Egyptians, and their situations consequently differ. The Egyptians have no fields or houses or animals to give over to the pharaoh because he has already acquired them, nor can they give their persons because they

already belong to him. The only transaction they enter into with the pharaoh concerns the production of food. He gives them seed to sow the fields, and later at the harvest they keep four-fifths of its yield for themselves and give him the remaining fifth.

For the Israelites, a different but related regimen prevails in regard to their possessions and persons. Sometimes Yahweh (Lev 27:28, 29), like the pharaoh, requires the Israelites to hand over permanently certain of their animals, certain produce from their fields, and even certain persons, namely, those "devoted" or "banned" (*ḥerem*). The exercise of such absolute authority on the part of Yahweh compares with the pharaoh's after the famine is over. Although the ruling power in Israel is but analogous to the one in Egypt, it nonetheless seems clear that there has been a conscious attempt to relate the effects of the one to the other. Thus the rates of redemption in the rules for persons who are dedicated to Yahweh, as against those "banned," appear to be the equivalent of those for slaves.[34] In other words, the analogous Israelite situation to the Egyptian one is that of the religious equivalent of secular slavery.

Other times an Israelite, unlike an Egyptian with the pharaoh, is in a position to freely hand over fields, houses, animals, and persons to Yahweh. Any compulsion to do so comes from within the Israelite himself. For example, he might dedicate a house or field to Yahweh. He can, to be sure, take either back but an act of redemption is necessary. If he chooses to redeem, there is an additional cost to the transaction. He has to pay a one-fifth premium on top of the value that the receiving priest on behalf of Yahweh originally placed on the gift. The premium is the same as the one-fifth value of the harvest that the Egyptian serf has to pay to his lord and master for the initial seed that the latter gives to him. Revealingly, when an Israelite redeems a field, he actually pays the extra premium according to the seed that is sown in the field (Lev 27:16, 19). Even though the Israelite situation is necessarily different from the Egyptian, the agricultural assessment for the Egyptians seems again to have influenced the agricultural assessment for the Israelites.[35]

It is common to think that the biblical lawgiver constructed laws as a direct response to social and economic forces in his time. But that is to entertain a too-narrow, overly passive conception of the nature of law. Sometimes laws aim to shape or reinforce cultural identity. The laws in Leviticus 25–27 are of this kind. They are literary-legal constructions that legendary events inspire. The lawgiver's intent was to give sharper definition to an Israelite's identity by having him recall his nation's experience when living in a foreign land. More likely than not, the Israelites addressed in the laws are themselves living in foreign parts, in Babylonia.

DREAMS AND THE LAWS ABOUT THE SABBATICAL YEAR, JUBILEE YEAR, AND THE FORGOTTEN SHEAF

Each of the famous dreams in the story of Joseph—Joseph's, the butler's, the baker's, and the pharaoh's—alludes to historical developments. Indeed, the pharaoh's dreams in particular may have been a stimulus to the Leviticus lawgiver when he presented his laws in Leviticus 25.

It is first interesting to note that the dreams use numbers to convey the passage of time in Egyptian history, just as the sabbatical and Jubilee laws in Leviticus 25 do so also. The three branches on the vine in the butler's dream represent three days, within which period of time he is indeed released from prison and becomes in real life his master's butler again (Gen 40:13). The three baskets of cakes on the baker's head in his dream betoken the three days within which he too is released from prison, only to be hanged on the third day. More pertinent for our purposes are the pharaoh's own dreams in which there are seven sleek cows, seven gaunt ones, also seven plump ears of grain and seven blighted ones. Alluded to is the combination of the seven years of plenty and the seven years of famine, precisely the combination that the lawgiver focuses on in his seven sabbatical years and the seven-times-seven-year periods culminating with the year of the Jubilee.

If we ask ourselves what came first, the dreams or the historical legend about the events of the famine in Egypt and Joseph's role in it, the answer has to be the legend. The dreams will have been a response to some outline of that history. From a rational viewpoint, it is just not likely either that the dreams and the history belong together originally or that the dreams did indeed generate the history. When the lawgiver, in turn, constructed his laws about the sabbatical and Jubilee years on the basis of the Joseph story, he engaged in a process as sophisticated as the one that integrated the dreams into the story.[36] His legal construction made use of the details of the story and incorporated them for the welfare of future Israelites living in their own land.

There is in fact good evidence for linking the dreams to some of the laws. I argued in the introduction that the inspiration behind the formulation of the law of the forgotten sheaf in Deut 24:19–22 is Joseph's dream about himself as the sheaf of grain before which his brothers bow down. The law is similar in intent to the sabbatical and Jubilee rules in that its manifest content is about attending to the needy. The explanation for the similarities is that the Deuteronomic rule also harked back to the problem of famine in Egypt. Like the Leviticus rules, it too turned to the role of Joseph in obtaining food for the Egyptians and his own family in bad times. Like the

rule about the Jubilee, the odd element in the rule of the forgotten sheaf was designed to arouse curiosity and engage historical memory.

In a recent study, Moshe Weinfeld claims that the contents of the laws about the sabbatical and Jubilee years are "rooted in the reality of the Ancient Near East, but are permeated with idealistic-utopian elements."[37] What he means is that the kinds of relief for the indigent that are laid out in Leviticus 25 can be duplicated, more or less, in Near Eastern sources. He suggests that, in a remote period in ancient Israel, the institution of the Jubilee had a social reality in "communal tribal society."[38] It continued to exist but experienced breakdown because of changing economic circumstances. In a decidedly deteriorated form it reemerged with royal edicts of the type familiar to us from Mesopotamia, Egypt, Persia, and Greece. The edicts decreed the release of the people's debts and the restoration of their property. What the biblical authors did was to preserve in theory the substance of their supposedly ancient laws about the Jubilee and the release of debts. Idealistically, they attributed the proclamations to the Israelite god, and this association is evidence that Israel's religion had an ethical character not matched in, for example, Mesopotamian religion.[39]

There is much that is inevitably speculative about Weinfeld's stimulating sketch of a biblical institution. There may also be an apologetic undercurrent, his claim about the uniquely ethical character of Israel's religion, and possibly also his desire to locate ancient Israel firmly within the firmament of the nations of the Near East in a fashion that today's Israel would like to emulate. Nonetheless, it would be foolish not to recognize that the ideas underlying the biblical laws did not have some basis in the life of ancient Israel, despite the lack of direct evidence. Weinfeld states that the proclamation of liberty in Leviticus 25 is "functionally speaking identical with" the Mesopotamian edicts, but he hastens to add that the literary framework into which the Israelite institution has been woven adds "a utopic coloring."[40] My claim is that this coloring, if not everything, is of crucial importance. The biblical scribe set out to recall Israel's legendary past in Egypt with a view to laying out an institution that, however much it may have resembled contemporary ones in either the Israel of his time or among his neighbors, differed significantly from them. The difference lies precisely in the fact that the scribe fashioned the Year of Jubilee in a way that directly opposed how Joseph regulates the Egyptians at the time of the climactic year of the famine in Egypt. Indeed, what is inside Weinfeld's literary framework should not, as he implies, be kept separate from the framework itself. If my inclination is to maximize the inventiveness of the biblical scribe, Weinfeld's is to reduce it to a religious gloss.

CHAPTER TEN

Three Laws on the Release of Slaves

Exodus 21:2–11, Deuteronomy 15:12–18, and Leviticus 25:39–46

Slavery they can have anywhere. It is a weed that grows in every soil.

I address in this chapter one of the most enduring problems in the history of Pentateuchal criticism. The three laws on the manumission of slaves, all from Moses, are set down at different points throughout the Pentateuch, and the directions in one law are seen to be at odds with those in each of the other two. Even the Talmudic authorities had great difficulty in demonstrating, what they felt they had to do, that the three slave laws constituted a homogeneous whole.[1] The problem presents a test case for how we should evaluate the composition of the Pentateuch.

In a recent article, John Van Seters refers to "the almost universal assumption that the version of the Hebrew slave law in the Book of the Covenant (BC) is the oldest version of this law and therefore antecedent to the parallel versions in Deuteronomy (DC) and the Holiness Code (HC)."[2] He attempts the reverse: BC is later than DC and HC. I wish not only likewise to attack this universal view, but also to question the very validity of the assumption that we are dealing with a historical progression in the sense in which Van Seters and these other scholars imagine.

Rules	*Narratives*
Exod 21:2–6. A male slave is to be released after six years of service but without his wife and children if she has been given to him by his master.	Genesis 29–31. Laban treats Jacob as a slave to whom he gives wives and who in turn have children. When Jacob seeks to be released after a six-year period of service, Laban claims the wives and children as his.

Exod 21:7–11. A man acquires a wife who, in fact, is not the one that he entered into an agreement to take. If, having taken her, he takes a second wife, he must not curtail the first wife's conjugal rights nor the kind of food and clothes he provides her.	Genesis 29–31. Jacob seeks to acquire Rachel as his wife but finds that he acquires Leah instead. He proceeds to take Rachel as an additional wife but curtails Leah's conjugal access, the limitation bringing up the issues of her unattractiveness and the kind of food available to her.
Lev 25:39–46. An Israelite who sells himself to another Israelite has not to have the status of a slave but that of a hired servant and sojourner. Foreigners, however, an Israelite can enslave.	Genesis 47. Joseph's brothers escape enslavement in Egypt when they settle there as sojourners, the pharaoh employing them as hired servants. Joseph does, however, enslave all the Egyptians.
Deut 15:12–18. Male and female slaves are to be released after a certain period of service, but if they are content with their master, they can remain as permanent slaves.	Exodus 1–12. The male and female Hebrew slaves are released together after their length of service under the pharaoh, who wanted them to remain permanently.

I proceed at a simpler level of historical analysis by noting that the texts themselves provide accounts of their own author and dates, a matter, remarkably, to which critics pay not the slightest attention. Moses gave the Exodus and Leviticus laws at a point after the departure from Egypt, and he gave the Deuteronomic law in his farewell address to his people at a point in time when they anticipate imminent entry into the land of Canaan. Looking back on the past, Moses reflected, I will argue, on past generations' experiences of slavery, including that of his own generation, the responses to which in the three different laws constituted his directions for the future life of his people. In giving his Exodus slave law, Moses looked back to Jacob's problems, as described in the book of Genesis, when serving the Aramean Laban. In giving his Leviticus law, he took stock of the experience of the economic situation in Egypt, again in the book of Genesis, when Joseph enslaves the Egyptians but before the Israelites themselves experience slavery in Egypt. For his Deuteronomic law, he considered Israel's experience of slavery during his own lifetime, as recounted in the book of Exodus. We are, then, dealing with three successive periods of history that are incorporated sequentially into the books of Genesis and Exodus. The corresponding laws, in turn, appear sequentially in Exodus, Leviticus, and Deuteronomy.

The body of narratives, the Pentateuch, which relates these periods of history, contains the law codes. In the person of Moses, the real lawgiver treated the narratives as the foundational stories of his nation and from them he extracted the distinc-

tive rules of his people. He did so by translating into rules the deity's actions and judgments in the stories.

Jacob comes into Laban's household as a single man. He serves over three different periods of time, during the first two of which he receives Laban's daughters as wives. At the end of the sixth year of his last period of service he seeks emancipation, but Laban demands that his wives and the children he had by them do not go free with him (Genesis 29–31). *The Exodus rule is about a male slave's freedom after six years of service and a wife's standing if she comes into service with him—she goes out with him—and her standing if his master gives her to him and he has children by her—she and they stay with the master* (Exod 21:2–6).

The law in Exod 21:2–6 reads:

> If thou acquire an Hebrew servant, six years he shall serve: and in the seventh he shall go out free for nothing. If he came in by himself, he shall go out by himself: if he were married, then his wife shall go out with him. If his master have given him a wife, and she have born him sons or daughters; the wife and her children shall be her master's, and he shall go out by himself. And if the servant shall plainly say, I love my master, my wife, and my children; I will not go out free: Then his master shall bring him unto the gods and he shall bring him to the door or to the door post; and his master shall bore his ear through with an aul; and he shall serve him for ever.

JACOB WITH LABAN

In Genesis 29, Jacob comes into the household of the Aramean Laban, his mother's brother. He does not enter as a slave. To be sure, he is a fugitive from Esau (Gen 27:43), and the status of any fugitive who turns up in a foreign territory is likely to be that of a slave, the definition of which at all times is no easy matter.[3] The epithet Hebrew, although not applied to Jacob in the account in Genesis, is one that is typically used when an Israelite is a foreigner in another country, as is Jacob in Aram. In Egypt, Joseph is so described (Gen 39:14, 17), as are the later Israelites there (Exod 1:15, 16, 19; 2:6, 7, 11, 13; 3:18, etc.).

Jacob does not think of himself as coming to Laban as a slave, but his status in his uncle's household nonetheless turns out to be ambiguous. This is because of the way Laban chooses to evaluate Jacob's service when Laban gives his daughters to Jacob as wives in return for fourteen years' work. The law in Exod 21:2–6 deals with precisely the issues in the narrative by transferring them to a Hebrew slave's status as

experienced by Israelites living within Israel. Moses instructed an Israelite about acquiring a Hebrew slave, in contrast, I suggest, to Laban the Aramean's deceptive acquisition of the Hebrew Jacob. In the law, the verb is *qanah*, "to acquire, buy," the use of which, as Chirichigno points out, does not envisage any particular type of transaction. I would point out that Laban does not purchase Jacob from anyone, but it soon becomes clear that, after negotiating an arrangement for Jacob to serve him, Laban proceeds to treat him more as an acquired slave. Thus Laban gets seven years' work from Jacob for a certain kind of wage, Leah as a wife, that Jacob had not agreed to or wanted.[4]

THE EXODUS SLAVE RULE

The rule in Exod 21:2–6 targets when a slave's service comes to an end and what then happens to any wife that he acquired while he was a slave. The double concern constitutes a major issue in Jacob's dealings with Laban. An obvious question is, Why did the law deal with such specific matters as the precise time for a slave's manumission, his acquisition of a wife and children by her, and a tie of affection between himself and his master (as well as with his wife and children)? There is also the role of household gods to indicate his permanent attachment to his master. I suggest that we can address each of these matters by relating the law to the narrative.[5] The Genesis episode, because of the manifest cheating that goes on in it, raises issues that cry out for clarification. In his law, the lawgiver primarily addressed the problematical issues in the narrative by choosing to view Jacob's role as a slave.

A Slave's Length of Service

Jacob enters Laban's household as a single man and immediately confronts the issue of what his status is going to be under Laban. On the face of it, Laban affirms that Jacob will not serve him for nothing (*ḥinnam* as in the rule; Exod 21:2) but will receive payment (Gen 29:15). In reality, matters will turn out otherwise. Laban in effect gets seven years' unpaid work out of Jacob. The reason is that the woman, Rachel, whom Jacob thinks he will receive as reward for his service at the end of the seven years is not given to him—Laban tricks him into taking the unwanted Leah instead—and he has to serve an additional seven years for Rachel. Jacob has done a slave's service for his first seven years with Laban.

After the fourteen-year period Jacob requests that, should he continue to live on in Laban's household, and Laban very much wants him to do so, provision should be made for his own house (Gen 30:30). Jacob labors for six more years and actually

obtains considerable wealth from his employment. The situation is such, however, that each party engages in major acts of deception. As Jacob points out to him, Laban sought to have Jacob work for nothing (Gen 31:42), and Jacob, in turn, had to resort to manipulation when breeding Laban's livestock in order to acquire some animals by way of payment for service. Jacob views his status more in terms of a hired servant, whereas Laban, as emerges clearly after he tracks down the fugitive Jacob, views Jacob more as a slave.

At the end of six years, that is, after Jacob has served twenty years in all, God, who represents a universal standard of fairness in such matters, intervenes and directs him to flee his oppressive service under Laban. The Exodus law lays down a period of six years for a slave's service, not three as in the rule for a debt-slave in Hammurabi (Code of Hammurabi 117), nor a variable number as in Roman law. In prescribing a six-year term, I suggest that Moses took stock of God's intervention in Jacob's third term of service with Laban. To be sure, Jacob serves twenty years in all. The narrative, however, divides Jacob's service into three periods, one of seven years for Leah, another of the same length for Rachel, and then the six years to acquire possessions for his own household. Each period raises the issue of slavery because of Laban's cheating, but it is only at the end of the six years of the third period of service that the deity chooses to intervene. He does not do so at the time when, after Jacob's seven years of service, Laban gave him Leah instead of Rachel as a wife. Although all three periods are relevant to issues affecting a person's enslavement, in the matter of the precise time for the manumission of a slave the lawgiver followed the timing of the deity's intervention during Jacob's third period of service.

A Slave's Marriage

The law addresses both the position of a man who does not and one who does bring a wife with him into servitude. The story is again relevant. When Jacob leaves home to go to his uncle Laban, a major concern of his parents is that he acquire a wife (although she must not be a Canaanite; Gen 28:1, 2). The law, in turn, also has an interest in the marital position of the Hebrew male. It covers two situations: first, a male without a wife, which is Jacob's position when he comes into Laban's household; and, second, a male who has a wife, which is Jacob's position after he serves fourteen years for Rachel and Leah and enters again into an arrangement with Laban.[6]

The law addresses the issue of what happens to a wife the slave receives from the master and to whom children are born. Moses again harked back to a development in the narrative. Jacob wants his two wives and the children he has by them to leave

Laban's household with him, but Laban claims that the two wives and children are his possessions (Gen 31:43). From Jacob's viewpoint he brought his wives with him into his third period of service, but from Laban's viewpoint Jacob was continuously a slave and therefore his daughters were given to him as a slave. As in the Exodus law, the issue arises in the narrative of Jacob's quitting his service with or without wives and children. In the law, Moses resolved the comparable problem for a Hebrew slave where, unlike the narrative, there is no ambiguity about his status as a slave (nor about the status of the wife the master gives him). Any wife who is given to the slave and any children who are born of the union during the slave's service stay with the master. Moses only permitted the slave's wife to leave with him should she have accompanied him into service.[7]

Permanent Slavery

In the law, if there is a bond of affection between the slave and his master, the slave can choose to become permanently attached to the master's household. The story is quite explicit about the issue of a tie of affection between Jacob and Laban. Jacob wants to quit his attachment to his relative because he notices that Laban no longer is well disposed to him (Gen 31:2, 5). Presumably, if there had been no animosity and if the implied affection between son-in-law and father-in-law had continued, Jacob might have opted to stay on with Laban. In light of what transpires in the narrative, it is noteworthy that the rule speaks first of the slave's loving his master. The idiosyncratic situation described in the story provides the best explanation for a stipulation that is unique to the biblical legal material, no provision like it being found in other Near Eastern documents.

Should a slave opt for permanent attachment to his master, the master "brings him to the gods [*ha'elohim*]." The reference, I suggest, is to such household gods as Laban possesses and Rachel steals, and which symbolize the protective power of a man's home. Laban ends up not finding them because Rachel hides them. These gods remain in Jacob/Israel's household after Laban is unsuccessful in claiming that Jacob's wives and children are his. There is no subsequent, even implicit, judgment that the founder of the nation should dispense with them, unlike Jacob's order in Gen 35:2 when, dealing with the Hivites who join his family, he has his household remove any gods the Hivite incomers possess. Chirichigno pays no attention to the fact that the gods remain in Jacob's household when he discounts *ha'elohim* (the gods) in Exod 21:6 as a reference to such domestic gods as are cited in Genesis 31. He claims that the rule could not possibly have tolerated the worship of idols. He asks why, if "household gods" is indeed the meaning, the more common term

teraphim was not used in Exod 21:6 instead of *ha'elohim*. In Genesis 31, however, the former term occurs three times (vv. 19, 34, 35) and the latter twice (vv. 30, 32), hardly a compelling reason for the lawgiver to have used one term over against the other.[8]

There may in fact be a more substantial link between the role of the gods in the law and Rachel's theft of them in the story. She takes them from her father's house just after declaring that he no longer treats her sister and herself as daughters but as strangers whom he has sold (Gen 31:15).[9] By agreeing with their husband Jacob that they should detach themselves from Laban's household, she is acknowledging that Laban should no longer impose on him. The development takes place at the end of the final six-year period of Jacob's service to Laban when, according to the Exodus law, the issue arises about a slave remaining permanently with a master because of his affection for master, wife, and children. The possession by Rachel of the household gods suggests that Laban, who searches hard but unsuccessfully for them, cannot claim in their presence that his daughters belong to him and that Jacob cannot therefore take them off. When Laban eventually agrees to let Jacob depart, they confirm the agreement at an especially erected heap of stones with God (*'elohim*) as a witness (Gen 31:43–54). In light of the role of the household gods in the Laban narrative, the lawgiver, I suggest, has inferred that, in the contrary situation where a slave wishes to remain with a master, they have a role. They confirm that after a slave makes a clear declaration that he loves his master, wife, and children, the master has a permanent claim to the slave, his wife, and children.

Jacob expects to acquire Rachel as his wife but, on the wedding night, is tricked into marrying Leah instead. He does marry Rachel also, as a second wife, but Leah suffers from lack of access to the marital bed because she is not attractive to him. She only gains limited access to it after she gives some special food to her co-wife Rachel (Genesis 29–31). *The rule, in turn, is about a man who acquires a wife he had never agreed to take and how, after taking a second wife, he must not diminish his first wife's access to the marital bed, or cut back on the quality of her food or clothing* (Exod 21:7–11).

JACOB WITH LABAN AND THE CONCUBINE LAW OF EXOD 21:7–11

Jacob's history turns on the ambiguity of his status in Laban's household: in some respects a slave because of the way Laban treats him, in other respects a hired hand because of the arrangements he enters into with Laban (Gen 29:15; 30:28; 31:7).[10] The lawgiver was alert to the ambiguity. The first part of the slave law (Exod 21:2–6) focuses on the aspect of the story that would have Jacob as a slave who comes into a

master's household and acquires a wife. The next part of the law (Exod 21:7–11) focuses on the story's other aspect, the one that depicts Jacob as a freeman who negotiates the acquisition of Laban's daughter as a wife. This part of the law is indeed about a freeman to whom a man sells his daughter as a concubine:

> And if a man sell his daughter to be a maidservant, she shall not go out as the menservants do. If she please not her master, who hath not designated her for himself, then shall he let her be redeemed: to sell her unto a strange nation he shall have no power, seeing he hath dealt deceitfully with her. And if he designate her for his son, he shall deal with her after the manner of daughters. If he take him another wife; her food, her raiment, and her conjugal right, shall he not diminish. And if he do not these three unto her, then shall she go out free without money.

The switch—it is not an obvious one—from the topic of a male slave and any wife he might acquire to the topic of a freeman's acquiring concubines is attributable to Moses's focus on the destiny of the daughters of Laban.[11] The issue of their becoming wives to Jacob—who, I repeat, thinks of himself as a freeman—is a marked feature of the narrative, and at one point they claim that their father has sold them (Gen 31:15). As with Jacob's ambiguous status under Laban, the lawgiver took up the ambiguous status of Laban's daughters. Are they daughters, for whom a full marriage with a bridal price is being arranged, or daughters who are being sold as concubines, or even daughters who are being given as wives to a master's slave? Jacob assumes the second arrangement, Laban in his deceptive stance a combination of the second and third arrangements.

Laban gives Leah and Rachel to Jacob by way of payment for services. He regards Leah as the daughter—she is older than Rachel—who should first be married off to his nephew. When Laban and Jacob make an agreement that Jacob should serve seven years for Rachel, Laban in fact concentrates on Leah becoming Jacob's future wife. Needless to say, this is not Jacob's understanding of the agreement. He thinks he is serving for Rachel, the younger daughter, and only for her.

From at least the time of the Septuagint, the rule in Exod 21:7–11 has posed a quandary. It deals with a woman who does not please the man to whom she is sold and states that she is *not* designated (as a wife) to him. The Massoretes, like the authors of the Septuagint, changed the Hebrew to say that the man has in fact designated the woman as a wife, that is, they read *lo*, "to him," not *lo'*, "not."[12] But if we accept this emendation and take the rule in the sense they indicate, we are given unnecessary information. The rule takes for granted that a man is selling his daughter as a concubine to another man.[13] It is therefore redundant to be told that she has been designated to him as a wife.[14] Moreover, if the problem is that after agreeing to

take the woman as a wife he does not like her for some reason—the view taken by those who emend the text—we would expect the reference to the formal agreement to marry to come before the statement that she is displeasing to the man. The text should then have read, "If a master has designated her [as a wife] but she becomes displeasing to him." Instead, we are first told she is displeasing, and then comes the clause (as emended) about marriage. Even more to the point, if we accept the emended reading we would want to ask why is it deceitful of the man to decide that he does not wish her after all? Why can he not change his mind without being accused of treacherous and deceptive conduct?

As usual, when it comes to choosing between two readings, we should retain the more difficult one. The rule deals with the bewildering situation where, in an arrangement for a man to receive another man's daughter as a wife, she is a woman for whom he has no liking *and* she is *not* designated as his wife in the first place. Why would a lawgiver set out such a bewildering negative set of circumstances that run counter to the rule's opening statement?

In focus is the extraordinary situation of Leah with Jacob. When choosing a wife, Jacob assesses Leah's looks and decides against her (Gen 29:17, 18). Leah's situation presents Moses with the example of a woman not pleasing to a man, who, despite her father's view to the contrary, does not regard her as his designated wife. The term *ya'ad*, "to designate," has the sense of appointment to meet at a certain time or place for a formal purpose—in this instance, marriage. The term fits well Jacob's meeting Leah in the wedding tent. Moses's judgment was that a woman in a similar situation should be redeemed and not sold abroad. I presume (with the *Mekhilta* on Exod 21:7–11) that her father has to redeem her.[15] The reason why she is not to be sold abroad but redeemed is that she has been treated treacherously (*bagad*). That is exactly Leah's fate. If the local custom is, as Laban says it is (Gen 29:26), to marry off the firstborn daughter before any other, Leah could rightly anticipate becoming Jacob's wife. She must then have been sorely distressed to find that Jacob in no way shares that assumption, especially after (drinking because of the feasting) he consummates the union with her. Leah perhaps even refers to her bad treatment at Jacob's hands when, sometime later into the marriage, he no longer sleeps with her. She sends her slave girl (Zilpah) to him, and he produces a son, Gad (*gad*), by her. Leah gives him this name because "he [Jacob] has dealt treacherously [*bagad*; Gen 30:11]."[16]

In the narrative, because of the difficult circumstances in which he finds himself, Jacob does not in fact return Leah to her father but keeps her as a wife. She bears Jacob many children, but she is unloved. In the law, if a woman in her position ends up sold to a man who, because of misunderstanding or cheating, has not designated her as a wife for himself, she must be treated as more than a disposable slave. She

cannot, for example, be sold abroad. In the story, Laban expresses concern about how Jacob will deal with his wives when he takes them from their native country (Gen 31:43–55). In the law, should the man retain her as a wife not for himself but for his son—Jacob does retain Leah for himself, not for a son, an option unavailable to him—he should treat her in the normal way when arranging a marriage for a son. Informing the rule in Exod 21:7–11 is, I suggest, sensitivity to Jacob's reprehensible treatment of Leah as less than a full wife, and Leah and Rachel's complaint that their father treated them more like slaves than daughters when he sold them to Jacob (Gen 31:14–16). In introducing the option of the son acquiring the woman, the lawgiver came up with a less unusual outcome than is found in the narrative.

The last part of the rule addresses what should be done when a man takes a wife in addition to the one he has. If we attempt to analyze the rule in light of the preceding part of it, we run into the problem that the man does not take a first wife because he returns the woman to her father or gives her to his son. How then can the rule refer to his taking another wife?[17] If we link the rule to the narrative, we have a solution to the problem. Although not wanting to take Leah as a wife, Jacob nonetheless ends up with her as his first wife instead of Rachel, whom he assumed was going to be his one and only wife. Focused on Jacob's negative attitude to Leah, the lawgivers laid out a concubine's rights in response to how Leah fares as a wife in Jacob's home, for example, after she loses her place in her husband's bed.

Rights of a Wife

Exod 21:10, 11 requires a man who acquires a concubine in addition to the one he already has not to curtail the first one's food, raiment, and frequency of intercourse. If he does, he must let her go free. Ze'ev Falk claims a wide application for the rule: "Where a husband had refused his wife her conjugal rights, she was permitted to leave him."[18] David Daube rightly criticized Falk as being "too generous to women in detaching the norm from its peculiar sphere: it would be unthinkable in the age of the Mishpatim [laws in Exodus 21–23] to entitle a bought concubine to leave in the absence of a Number 2, simply because the husband is remiss in the habitual courtesies. That would virtually abolish the institution."[19] Falk, moreover, implies that, absent a denial of conjugal rights, a full wife requires permission to leave a marriage. If he means that she cannot divorce him, he is correct, but if he means simply that she can walk out on her husband, he is wrong because that action requires no permission.

The curious situation in the rule becomes much clearer once we relate it back to Jacob's marriage first to Leah and then to Rachel (Genesis 29, 30). As we have

seen time and again, the eccentric features of a narrative spark the formulation of biblical rules, and hence, *pace* Falk, it is often unwise to treat them as having wide application, or even any application, because the focus was originally fixed on a unique situation. Chronologically, Rachel is Jacob's second wife—he acquires her the week after he finds himself tied to Leah as his first wife. Rachel is Jacob's preferred wife and Leah his other wife by sufferance. In the rule, Moses addressed himself to the first wife's neglect, and he had in mind Leah's situation. He insisted that the out-of-favor wife not have her conjugal rights diminished. The concern comes straight out of the Genesis narrative. Jacob wants to marry Rachel because of her lovely appearance. Her sister Leah, on the other hand, he finds unattractive on account of her eyes. Jacob does marry Leah (because her father tricks him into doing so), and even though he hates her, he nonetheless has sexual relations with her and produces a number of children by her. It may be that Jacob sleeps with Leah because it is understood he is duty bound to do so. At some point in time, however, Jacob excludes her from the marital bed. We learn about the exclusion when she has to bargain to spend a night with her husband again. To attain her wish, she gives to the favored wife Rachel some mandrakes or love-apples to aid the infertile Rachel to conceive (Gen 30:15–18). What inspired the lawgiver to focus in his law on the surprising issue of a wife's access to the marital bed is, therefore, an idiosyncratic development in the narrative.

I say surprising because S. M. Paul is skeptical that Near Eastern societies recognized such a right. Consequently, Paul thinks that the law in Exodus is not referring to a conjugal right at all, and he is driven to translate the term *'onah* as "oil," not as "conjugal right."[20] Rejecting Paul's translation, Etan Levine provides considerable evidence in support of the traditional meaning of *'onah* as "conjugal right." Levine also comments about the biblical lawgiver's "surprising juridical intervention into marital intimacies" and suggests that the "actual attitude toward female sexuality in the ancient Near East is better revealed by literary texts."[21] In making the suggestion, he does not, however, invoke Leah's situation. My point is that the Exodus rule takes up the matter of the wife's marital rights precisely because of the Genesis story, not because it is a societal issue. Paul's skepticism presupposes an openly recognized right. That there existed an unwritten, taken-for-granted right is another matter. The question then to be asked is what odd circumstances would prompt the need to bring the self-understood matter into open discussion? Jacob's relations with Leah would constitute just such circumstances.

The law's other concerns about not cutting back on the provision of food, specifically in the form of meat (*š'r,* as the New English Bible correctly translates), and clothing for the ill-favored wife also reflect issues in the narrative. Indeed, the law's

three concerns, a wife's appearance, her appetite, and her allotted share in the marital bed, all emerge in the incident about the mandrakes. Jacob excludes Leah from his bed presumably because he continues not to care for her looks. He has to admit her to it, however, because she strikes a bargain with Rachel in the matter of the love-apples. In the law, the master-husband has to attend to the ill-favored wife's raiment, surely not because he fails to give her sufficient clothes to keep her warm but because he is not interested in making her attractive. He also has to provide her with meat, surely not because he has her on a starvation diet or on a vegetarian one. The topic comes up because the Genesis narrator mentions that Leah's son provides her with plant food in the form of the mandrakes. The lawgiver insisted that someone in Leah's situation should be treated generously in line with how a husband might treat a favored wife. The reference to the food as meat points in the direction of such generosity because meat would have been a luxury item in the menu. The provision of clothing to enhance appearance also points in this direction.

The lawgiver states that the master-husband must not curtail or diminish (*gara'*) the concubine's meat, raiment, and opportunity for intercourse. The sentiment is in line with the story. It is not that Leah is entirely denied such attention but that Jacob, the lawgiver judges, did not do enough for her on all three counts. The story also brings out how both daughters protest their own father's actual denial of their material rights. When Jacob decides to flee from Laban and take with him possessions gained during his time with Laban, they support the decision on the grounds that their father has "sold them and quite devoured their money" (Gen 31:15). He had sold them to Jacob in the sense that the latter had to perform long and arduous service to acquire them. In addition, Laban had kept to himself the fruits of that service and not given or spent anything on them.

Reading the law as reflecting the historical and social realities of ancient Israelite life, Falk and other scholars see the rules as pointing to "normal" life back then and are quick to highlight how progressive the biblical rules are in contrast to what we find in other Near Eastern sources. For Falk, the rule is a monument to enlightened biblical thinking because it permits any wife, including a concubine, free to leave the marriage if she is denied her conjugal rights. If, however, the stories that make up the lore of ancient Israel prompt the rules, insight into the normal life of ancient times cannot be achieved with any confidence. Indeed, the point can be made that those scholars who construct for biblical rules a setting in Israelite social history are themselves engaged in storytelling. By their historical reconstructions they, in effect, compose etiological myths. That is, they engage in explanations that constitute inventions long after the fact in order not just to explain the situations in the rules but to justify their interpretations for their own peculiar, contemporary needs. In a way,

they begin all over again the process that characterizes the biblical one. They first take a biblical rule, suggest a "story" that is their reconstruction of a set of historical circumstances, and then gloss the rule in light of their reconstruction. The procedure is comparable to what a biblical lawgiver did. For example, he knew some rule about weights and measures, brought it to bear on the story of Joseph's transaction with his brothers, and reformulated it in reaction to the incident (Deut 25:13–16).[22]

Although wanting to retain indefinitely his Hebrew male and female slaves, the pharaoh has to release them and provide them material benefits when they depart from Egypt (Exodus 1–12). *The rule, in turn, is about recalling this period of history in Egypt and how an Israelite should release his male and female slaves after a definite period of time and give them provisions when they depart* (Deut 15:12–18).

THE DEUTERONOMIC SLAVE LAW

In line with the biblical sequence of events (Jacob with Laban, Joseph and his family in Egypt, and the enslavement of all the Israelites in Egypt), I should proceed to examine next the rule in Lev 25:39–46, which Joseph's role as governor in Egypt inspires. In that critics, however, have always viewed the slave law in Deut 15:12–18 as updating the slave law in Exod 21:2–11—after all, each rule has much in common with the other—I shall turn first to Deut 15:12–18.

The law in Deut 15:12–18 reads:

> If thy brother, an Hebrew, or an Hebrewess, sell himself to thee, he shall serve thee six years; and in the seventh year, thou shalt send him away from thee. And when thou sendest him out free from thee, thou shalt not let him go empty: Thou shalt furnish him liberally out of thy flock, and out of thy threshing floor, and out of thy winepress: of that wherewith Yahweh thy God hath blessed thee thou shalt give unto him. And thou shalt remember that thou wast a bondman in the land of Egypt, and Yahweh thy God redeemed thee: therefore I command thee this thing today. And it shall be, if he say unto thee, I will not go away from thee; because he loveth thee and thine house, because he is well with thee; Then thou shalt take an aul, and thrust it through his ear unto the door, and he shall be thy servant for ever. And also unto thy maidservant thou shalt do likewise. It shall not seem hard unto thee, when thou sendest him away free from thee; for he hath been worth a double hired servant to thee, in serving thee six years: and Yahweh thy God shall bless thee in all that thou doest.

Israel's Enslavement in Egypt

Unlike the Exodus rule, the Deuteronomic rule does not address the marital position of a male slave.[23] The explanation is readily accounted for. Whereas the Exodus rule focuses on Jacob's situation in Laban's household and his marital arrangements there, the Deuteronomic rule focuses primarily on the situation of the Hebrew male and female slaves in Egypt where the issue of their marital status does not arise. What accounts for the Deuteronomic rule's interest in the release of a Hebrew female slave as well as a Hebrew male slave is that there is an explicit reference in the story to the departure of female slaves from Egyptian service (Exod 3:22; 11:2). No such concern for an unmarried Hebrew female slave arises in the Exodus rule because it is not an issue in Laban's dealings with the Hebrew Jacob.

The Deuteronomic rule openly draws attention to that period of time in the life of the lawgiver, Moses, and there is thus an obvious link between the rule and the situation of the Hebrew slaves in Egypt. As I have just noted, the topic of the pharaoh giving wives to the Hebrew male slaves does not come up.[24] Moreover, in that all the Hebrews are enslaved, the issue in the Exodus rule of a father selling his daughters to a free Hebrew male does not arise either. The Deuteronomic rule's focus, then, is on unmarried male and female Hebrew slaves. They are treated equally on their release because all male and female slaves went out together at the time of the exodus. In the Exodus rule, a slave who opts for permanent attachment to a master refers to his love for his master, wife, and children. The slave in the Deuteronomic rule cites only the master and his household, there being no mention of any wife or children he may have. Scholars are right to compare and contrast the two rules. They are too ready, however, to assume that the rules constitute responses to different societal conditions (not, we might note, in the lifetime of Moses, but in later periods of time).[25] The rules merit comparison not because of changing historical circumstances of the kind critics posit, but because two legendary situations under review by the lawgiver(s) have features in common.

Just as biblical narrators record recurring issues over successive generations, so a biblical lawgiver—often in a single law, the Deuteronomic slave law being an example—took them into account. In surveying the traditions about the nation's past with a view to working out its ethical and legal foundations, the lawgiver encountered issues upon which he exercised his judgment. When, for example, he considered Pharaoh's treatment of the Hebrew slaves, he set down a rule (in Deuteronomy) about how, when the Israelites eventually live in their own land, a Hebrew master should treat a Hebrew slave. At the same time, however, in formulating the rule about

this issue, he looked back to the first occasion when a comparable problem arose in the history of his nation. That occasion was Jacob's situation with Laban. The Deuteronomic lawgiver was then guided in the formulation of his rule by the two narratives he had under review. The legend about Israel in Egypt, although very much about the release of slaves from service, does not have the deity take stock of the number of years they serve. The Laban story does. Accordingly, the Deuteronomic rule like the Exodus rule has the release of a slave come after six years because the Laban story influences each rule. The same lawgiver, "Moses," was after all responsible for setting down both rules.

Once we relate the Deuteronomic rule not only to Israel's period of slavery in Egypt but also to the original Israel's service under Laban, we can explain many of its other details. The exodus narrative itself links the Hebrews in Egypt with the patriarch Jacob/Israel. It begins with a genealogy of Jacob/Israel's sons and, because they greatly increase their numbers in Egypt, it then recounts how a new pharaoh enslaves their descendants (Exod 1:1, 7). As in the Exodus rule, the reference to a Hebrew slave in the Deuteronomic rule becomes intelligible because of the international background to the rule's formulation. The Hebrews become enslaved in a foreign country, Egypt.

Two of the primary concerns in the Deuteronomic rule are the time of release of a Hebrew from slavery and the master's material provisions to him on his release. These two issues are dominant ones in the Exodus story. I shall look at each in turn.

Duration of a Slave's Service

The pharaoh does not wish the Hebrews to quit their service, just as Laban did not wish Jacob to quit his, and the Hebrew god has to act on their behalf, as he had to do with Jacob under Laban. The Deuteronomic rule lays down the same requirement as the Exodus rule: a master has to release a slave after six years of service. The Deuteronomic rule's opposition to a master's unwillingness to release a slave ("it shall not seem hard unto thee") is in response to how the Hebrew god opposes Pharaoh's attempt to hold onto his male and female Hebrew slaves. There is a difference between the two rules. In Exodus the focus is on the slave's right to be released, whereas in Deuteronomy the focus is on the master's duty to release the slave. The different emphasis in each rule is traceable to the relevant narratives. In the Laban/Jacob story (influencing the Exodus rule), the focus is on Jacob's right to be released. In the Exodus story (influencing the Deuteronomic rule), the focus is on the pharaoh's refusal to release his Hebrew slaves. The pharaoh's conduct thus demands that the onus be put on a master's duty toward his slaves.

Like the Exodus rule, the Deuteronomic rule also addresses the issue of a slave's permanent attachment to a master on account of the slave's love for him and his household. The issue of attachment to Laban is a prominent feature of the narrative about Jacob. A comparable issue shows up in the Exodus narrative. After the Israelites eventually leave their service in Egypt, they complain about how things had been better for them in Egypt when they had "sat by the fleshpots and when we did eat bread to the full" (Exod 16:3). Note that the longing to be back under the pharaoh's control has nothing to do with the Israelites' attachment to wives and children. In contrast to the Exodus rule, the Deuteronomic rule does not mention wives and children.

The rule in Exodus also differs from the one in Deuteronomy in that the latter has no reference to bringing the slave to the household gods when the slave attaches himself permanently to the master's home. The Exodus rule has Laban's household gods in focus. There is no such feature in the story of the Exodus. Like many critics who assume changing societal circumstances over time, Van Seters thinks that the two laws differ in that the Exodus law has a public and religious ceremony when the slave opts for permanence of service, but the Deuteronomic law a private and secular ceremony. He seems to be unaware of the problem of the "gods" (*ha'elohim*) in Exod 21:6 and, without discussion, reads "God" and thinks it is really a reference to the sanctuary.[26] The following part of Exod 21:6, however, about bringing the slave to the door or to the doorpost refers to the master's house and not to God's sanctuary, as Driver rightly indicates.[27] The reference in both laws is thus to the master's house. In Exod 21:6 it is to the door of a man's house and the household gods there, which signify protection of it, and in Deut 15:17 it is to the man's house on the doorpost of which are found God's protective words (Deut 6:9; 11:20).[28]

Providing for a Departing Slave

I turn to the Deuteronomic law's concern with material provisions for the released slave. A major feature of the Exodus story is the curious request for gifts that the Hebrews make of the Egyptians when they leave off serving them. No less than three times is the request made. In Exod 3:22, the Hebrew women ask the Egyptians to give them "ornaments of silver and ornaments of gold and raiment." In Exod 11:2, each Hebrew man and each Hebrew woman asks to receive "ornaments of silver and ornaments of gold." The preceding verse (Exod 11:1) may even allude to a custom of releasing a slave wife with material goods.[29] In Exod 12:35, the Israelites ask to receive "ornaments of silver and ornaments of gold and raiment."

Unlike the Exodus rule, the Deuteronomic rule takes up the concern about pro-

viding for the well-being of a newly released slave by giving him flocks, grain, and wine. In doing so, the rule, I suggest, takes stock of the idiosyncratic feature about the jewelry in the Exodus story and also the provisions Jacob acquires when quitting Laban's service.[30] At one point Jacob complains that, having served a six-year term under Laban, Laban would have let him go empty (*reqam*, as in the rule). God, however, adjudicates (*hokhiaḥ*) in Jacob's favor—hence implying that there is a norm requiring provisions for someone who leaves a master's service—and confers upon Jacob material benefits in the form of cattle (Gen 31:42). The rule uses the verb *he'eniq* in the sense of furnishing a slave liberally when he departs from his service. The verb literally means to "make a necklace for, hang a gift round a person's neck," and the feature about jewelry in the Exodus narrative probably inspires its choice.

There is, as critics have noticed, an odd feature about the provisions cited in Deut 15:14. The master has to give the slave wine. A. B. Ehrlich points out that the slave will have to drink it rather quickly.[31] It is not a commodity that one would think of first in providing for a slave's needs when he leaves service. An aspect of the Laban narrative might explain the oddity. Laban tells Jacob that, if he had not departed secretly, he would have sent him away with mirth (*śimeaḥ*; Gen 31:27). The implication is that a master should do just that in seeing off a servant. The rule about the Feast of Booths in Deut 16:13–15 indicates that mirth might well include the imbibing of wine because the rejoicing (*śameaḥ*) celebrates the produce from threshing floor and winepress that year.

The provision of cattle (*tso'n*) to the departing slave is also surprising. Such generosity by a slave master is hardly realistic. The cattle will probably be worth more than the price of a slave. Again the background inspiration would appear to be the cattle (*tso'n*) Jacob acquires (Gen 31:18, 41). Even the grain that the law requires for the departing slave may owe something to reflection on the Jacob story. Jacob departs from Laban with flocks and, because he has to move speedily to avoid being overtaken by Laban, he presumably takes stocks of grain with him to feed them.

A major crux in interpreting the Deuteronomic rule concerns the appeal to the master when letting a slave go free after six years of service. The master is not to let the matter be "hard in thine eyes" (*qal. qašah*). Rather, he is to comfort himself with recognizing that, in serving six years, the slave has been worth twice the hire of a hired servant—that is, the owner would have gotten only three years work if he had employed a hired servant instead of buying the slave. How can such a precise calculation be made and, in the first instance, how can a slave's time with a master really be compared with a hired servant's employment? One approach to the crux has been to change the meaning of the term for "double" (*mišneh*). Thus M. Tsevat claims that the term *mišneh* means not "double" but "equivalent," in line, he thinks, with

a cognate term *mištannu* (found but once) in a treaty text from Alalakh about an owner's payment for the return of a runaway slave.[32] J. M. Lindenberger has convincingly rejected Tsevat's linguistic arguments, and in any event the notion that a slave's time is equivalent to a hired servant's is decidedly dubious.[33]

The two narratives again provide the solution to the crux. The lawgiver went from the issue in question in one narrative back to the comparable issue in the other. The pharaoh makes it hard, stubbornly refuses (*hiph. qašah*), to have the Hebrew slaves leave (Exod 13:15). God, however, forces him to do so by killing the human and animal firstborn.[34] Typically returning to the earlier instance of the problem, the lawgiver noted that, like Pharaoh with all the Israelites, Laban does not want Jacob to leave his service. God, however, insists on it because Laban has oppressed Jacob. Specifically, the oppression under scrutiny is when Laban gets a double amount of work out of Jacob. In the initial arrangement that Jacob makes with him, Jacob understands that after seven years of service he will receive Rachel as his wages. The arrangement is one between an employer and a hired servant. At the end of the seven years, Jacob receives instead from Laban Leah, whom he does not want and for whom, from his point of view, he has not been working. Laban's action turns the arrangement into a master-slave one in which a master gives a wife to his slave. Jacob then has to serve another seven years for Rachel. The upshot is that Laban has extracted double service from Jacob. The lawgiver has derived the equivalence from observing what transpired in the dealings between Laban and the first Israelite, Jacob.

In a foreign land, Joseph, the son of Jacob/Israel, enslaves all of the Egyptians but not his fellow Israelites who have come to sojourn in the land of Egypt. They serve instead as hired servants in the royal household (Genesis 47). *The rule, in turn, is about how an Israelite can enslave foreigners but not a fellow Israelite, who, if he sells himself to him, must be treated as a hired servant and sojourner* (Lev 25:39–46).

The law in Lev 25:39–46 reads:

> And if thy brother that dwelleth by thee be waxen poor, and sells himself unto thee; thou shalt not compel him to serve as a bond-servant: But as an hired servant, and as a sojourner, he shall be with thee, and shall serve thee unto the year of Jubilee: And then shall he depart from thee, both he and his children with him, and shall return unto his own family, and unto the possession of his fathers shall he return. For they are my servants, which I brought forth out of the land of Egypt: they shall not sell themselves by a slave-sale. Thou shalt not rule over him with rigor, but shalt fear thy God. Both thy bondmen and thy bondmaids, which thou shalt have, shall be of the heathen that are round about you; of them shall ye buy bondmen and bondmaids. Moreover of the chil-

> dren of the strangers that do sojourn among you, of them shall ye buy, and of their families that are with you, which they begat in your land: and they shall be your possession. And ye shall take them as an inheritance for your children after you, to inherit them for a possession; they shall be your bondmen for ever: but over your brethren the children of Israel ye shall not rule one over another with rigor.

JOSEPH IN EGYPT

The Israelites, as constituted by Jacob and his family, first encounter the problem of slavery as a fledging nation in Egypt. As I set out in the previous chapter, they are already resident in Egypt when, owing to conditions of famine, the vizier Joseph's arrangements to cope with it cause the Egyptians to become impoverished and sell themselves as slaves to Pharaoh. In exchange for food the Egyptians give all their money and then their animals to Pharaoh, and finally they sell themselves and their lands to him (Gen 47:13–26). The Israelites escape enslavement at that time and instead gain a landholding (*'aḥuzzah*) in a geographically separate part of Egypt (Gen 47:11, 27). A later pharaoh, however, does enslave a later generation of Israelites and has them serve with "rigor" (Exod 1:13, 14). Like the Egyptians of Joseph's generation, the new generation of Israelites becomes in turn slaves of the pharaoh. A long time is to pass before the Israelites acquire the land of Canaan and have landholdings in it.

THE LEVITICUS SLAVE LAW

Moses required that the Israelites do not do in their own land "after the doings of the land of Egypt wherein ye dwelt . . . [nor] . . . walk in their ordinances" (Lev 18:3). He laid down rules in light of events in Egypt, in particular, I am claiming, Joseph's policy there. In their own land the Israelites are to be slaves, not like the Egyptians to an earthly ruler such as the pharaoh, but to their own ruler God.[35] The model of the Egyptians as slaves of Pharaoh inspires the analogous model of the Israelites as slaves of God. The Israelites must "not sell themselves by a slave-sale" to any human master (Lev 25:42).[36] The Egyptians sold themselves by just such a sale.

The view of God as the master and the Israelite as the slave means that if an Israelite has to sell himself to another Israelite, he should not become a slave to him. He should serve as a hired servant or as a sojourner until the Year of Jubilee. As I pointed out in chapter 9, in Joseph's time, unlike the native Egyptians who become slaves, the Israelites in Egypt are sojourners and serve as hired servants. Joseph's brothers, for example, become keepers of the royal cattle (Gen 47:4–6).

In the law in Lev 25:40, 41, the Year of Jubilee is when the Israelite slave or hired servant returns to his family and "the possession [*'aḥuzzah*] of his fathers." The contrast is with what happened to the Egyptians. They have to sell themselves to the pharaoh and lose their possessions for all time (Gen 47:20, 21, 26).[37] In the matter of landed possessions, the difference between the Egyptians and the original sons of Israel comes out in the narrative. The pharaoh gives Jacob and his family a possession in the land of Goshen and provides for them in a way that will turn out not to be the case for his own people. In his rule, Moses anticipated the future life of the Israelites in the land of Canaan. They will have comparable landholdings in it because just as the kindly pharaoh gave Jacob's family one in his country, so God will give landed possessions to their descendants in his.

It is not surprising that Joseph's policy for the Egyptians should invite an Israelite lawgiver's scrutiny. The claim that God directs Joseph in all his actions (Gen 41:32; 45:8; 50:20) inevitably raises the question whether the Israelites in Canaan should have a similar institutional method of dealing with those who, becoming indigent in their society, have to sell themselves. The response of Moses was to dictate a policy that is both similar to and, because of Israel's particular identity, different from the Egyptian one authored by Joseph.[38]

The rule in Lev 25:39 opens with a concern about how one brother should treat an insolvent brother: "And if thy brother that dwelleth by thee be waxen poor, and sells himself unto thee; thou shalt not compel him to serve as a bond-servant: But as an hired servant, and as a sojourner, he shall be with thee." The formulation may owe something to the first Israelite family of brothers when Joseph enjoys a position of power and the others face impoverishment. The rule closes with the appeal to the Israelite master not to rule over his slave "with rigor." Recalled is the harsh treatment by the later pharaoh when he has the descendants of these brothers serve "with rigor" (Exod 1:13, 14). The rule explicitly draws attention to the experience of the Israelite enslavement in Egypt. The expression (*beparek*, "with rigor") occurs only in the Hebrew Bible in the law and in the Exodus narrative (also in Ezek 34:4). Like the Deuteronomic slave law, the one in Lev 25:39–46 also ranges over both the Genesis and Exodus accounts of Israel's experience of enslavement.

Unlike the Exodus and Deuteronomic laws, the Leviticus law does not refer to the slave as a Hebrew. The explanation is that, from an Israelite perspective, the Hebrew Joseph is responsible for the enslavement of a foreign ethnic group, not the contrary situation as in the two other rules. There the underlying focus was the treatment of Hebrews as slaves by two foreigners, Laban and the pharaoh respectively. The Hebrew Joseph, on the other hand, makes (from an Israelite perspective) permanent slaves of foreigners, the Egyptians. Noting this, the Leviticus rule permits an

Israelite (a Hebrew) to make permanent slaves of foreigners; indeed, it places much emphasis on the aspect of permanence when it details how the son of the Israelite master will inherit "as a possession forever" the father's foreign slaves. Neither the Exodus nor the Deuteronomic law raises the topic of an Israelite's possession of foreign slaves. We can account for the difference by noting that neither the narrative about Laban and Jacob (pertinent to the Exodus rule) nor the narrative about Israel's exodus from Egypt (pertinent to the Deuteronomic rule) recounts any involvement by, respectively, Jacob or Israel with foreign slaves.

Unlike the Exodus and Deuteronomic rules, the Leviticus rule says nothing about a slave's release after six years of service. He has to serve until the Year of Jubilee, which means that he might serve for as long as forty-nine years. The difference between the Leviticus rule and the two others is pretty much irreconcilable and probably indicates that the rules are hypothetical constructions responding to the different experiences of slavery in the nations' history before and during Moses's lifetime. Further indicated, perhaps, is that in the time of the actual lawgiver slavery, as an Israelite institution, no longer existed because of Israel's exile from the land. In such a situation the lawgiver would have felt free to explore different approaches to slavery in the nation's traditions and accordingly produced the differing rules that we find in the three biblical sources.

Unlike the Deuteronomic law, but like the Exodus one, the Leviticus law discusses the release from servitude of the members of an Israelite family. Lev 25:41 states, "And then shall he depart from thee, both he and his children [sons] with him, and shall return unto his own family, and unto the possession of his fathers shall he return." The Joseph story in Gen 46:5 cites how the family members of Jacob's sons all came down into Egypt, Genesis 46 proceeding to list by name the immediate sons of Jacob and all their sons who made the journey. To be sure, they were not subjected to slavery like the Egyptians to Pharaoh but their descendants experienced enslavement to a later pharaoh.

The biblical rules about the release of slaves (Exod 21:2–11; Lev 25:39–46; Deut 15:12–18) take up in order those experiences in the life of the nation (until the time of Moses) that are associated with slavery in some form or another. The Exodus rule covers Jacob's situation with Laban (Genesis 29–31), the Leviticus rule Jacob and his sons in Egypt (Genesis 47), and the Deuteronomic rule Israel in Egypt (Exodus 1–13).

A particular law is not a response, at least not in any direct sense, to an issue in the time of the unknown lawgiver, but an attempt to produce an ancient law of the people for an audience living many centuries after that history. One law is not to be

reconciled with another. Each represents a response by the fictional Moses to a different experience of enslavement in the nation's history. In that we know so little about the reception of any ancient document, we are in the dark as to whom the laws were addressed and when and where the addressees lived. A postexilic Babylonian community appears the likeliest possibility.

CONCLUSION

The Inseparability of Biblical Laws and Narratives

The fictional character of both the narrative and legal material is not paid enough attention. While critics are aware that Moses did not give the laws in his own lifetime, they still persist in viewing them as the product of the real-life experiences of later Israelites. It is puzzling why this is so. Part of the explanation may be that we like to identify with people's actual lives, not with someone's intellectual, ideological creation. We slip readily into its legendary depiction of events and shed our awareness of the fiction in doing so.

It is not to be expected that such a profound invention as the body of laws attributed to Moses would include rules that contradict one another. For those commentators who explain contradictions by supposing that rules were updated to adjust to changing societal circumstances, we might ask how the person who fused the various texts was acquainted with the rules and practices in place before his own time. There is no evidence that written codes of law were handed down and reissued every so often. S. E. Loewenstamm rightly points out that not only do we lack any evidence for the kind of updating of laws that critics suggest, but the process presupposes techniques and procedures that simply did not exist in antiquity.[1] More likely, in my view, customary rules prevailed as common knowledge among a certain group of thinkers and it was these legal customs that the biblical lawgivers tapped in committing to writing their judgments on the nation's past. I also do not rule out the possibility that the lawgivers might have been acquainted with ancient Near Eastern legal traditions and that they wished to present Israel's distinctive equivalent.

Claims that differences in vocabulary between one set of laws and another alone indicate a difference of authorship are misleading. For one thing, just because the language differs from context to context does not necessarily mean that the author

is different. For another, we have no unrelated, nonbiblical Hebrew documents to make objective judgments about the history of the Hebrew language from the biblical period. If we assume, moreover, a school of scribes at work, even if each member of the school is intent on producing judgments on issues that arise in the narrative histories, different members might employ different vocabularies, circumlocutions, and the like. In my view, the specific narratives that the lawgiver worked on often explain the language of the laws in ways not hitherto realized. An example is how the narrative in Judges 19 explains the use of the strange expression "a husband among his peoples [tribes]" in Lev 21:4 (see chapter 6).

The difference between my approach and that of other scholars can be clearly stated. We each claim that the lawgiver responds to a problem that can be located in a history that biblical literature relays to us. The difference is that I claim the lawgiver had before him all of this history as recounted in Genesis–2 Kings and responded to the problem as it is recounted there, that is, from a standpoint looking back on the past. He dealt not with live history but with incidents preserved in the folklore of the nation. He reacted to an incident in one generation and immediately, so to speak, to a similar incident in a much later generation, or to the first time the problem occurred in an earlier generation. One consequence is that two rules responding to two similar incidents may conflict, but that is because the two incidents differ in subtle yet crucial ways. Or two different formulations of the same rule are the responses to a single incident that recounts two different but related matters. The rule in Exod 20:8–11, for instance, which has the Sabbath as Yahweh's special day on which to commemorate his making the heavens and the earth and everything in them, including humankind and animals, is a reaction to Aaron's setting aside a special day to worship the man-made golden calf as a god (Exod 32:4). But the same lawgiver, or one similarly intent on uncovering a different issue in the same narrative, also considered the other false claim that the golden calf brought the Israelites out of Egypt (Exod 32:4). He responded by having the Sabbath command celebrate Yahweh's bringing the Israelites out of Egypt (Deut 5:12–15). The two formulations differ not because they come from different epochs but because each takes up a different facet of the same narrative.[2]

Those scholars who think of law as responding to what is happening in society assume that in the biblical period there was a legal authority in existence to issue rules. This legal authority would be a continuation, so they assume, of an institution that, despite their recognition of the fictional Mosaic authorship of the laws, began with a historical figure Moses.[3] The surmise is that archives containing codes of laws from different periods in Israel's past existed and, by estimating their dates from their contents, a process of legal development over time is detectable.

My opposing hypothesis posits that the lawgiver lived at the time when the material in Genesis–2 Kings had already attained its present shape. Indeed, I incline to think that he (or schools of scribes intent on the same aim) was associated with the creation of this entire literary enterprise, the narrative as well as the legal components. He cast his rules as coming from Moses and included them at certain well-placed points in the narrative history. For instance, he placed the deity's rules about killing animals and humans at the fresh beginning of the world after the Flood (Genesis 9); the Decalogue, the Book of the Covenant (rules in Exodus 21–23), and the succeeding rules about the institution of the cult at the start of the nation after the exodus from Egypt; the laws of Leviticus immediately after the setting up of the Tabernacle (on the first day of the first month in the second year after leaving Egypt; Exod 40:17); and the laws of Deuteronomy in anticipation of Moses's death and the Israelites starting a new life in the land of Canaan.

The scribe(s) responsible for Genesis–2 Kings had, then, the Moses of the Exodus story judge past, contemporary (to Moses), and future problems, all of which are found in the record Genesis–2 Kings. By means of his judgments, the anonymous writer (in the name of Moses) evaluated the stories of his ancestors.[4] Indeed, I would go so far as to claim that the phenomenon of a lawgiver taking up problems from narratives provides an answer to a fundamental question. Why do the biblical law codes exist in written form? It is, I submit, precisely events recorded in the national folklore that stimulated the lawgiver first to ask what kinds of rules might be at stake in them—and then to set out *in writing* ideal formulations of such rules.

Might whoever presented the laws also have been involved in the arrangement of the narrative material in Genesis–2 Kings? Was he (or the same scribal school) responsible for the judgments often found in the stories themselves and also for the placement of the stories such that a subsequent story portrayed retribution for an offense in a preceding one?[5] There is much indication that he was. Consider, for instance, how the range of events involving the priestly line of Eli—from the wrongdoing of Eli's sons to the slaughter of their descendants at Nob—on which the laws in Leviticus comment, is the same series of events on which the narrator of 1 Samuel also makes judgments. Consider also the pattern wherein both traditions and laws are taken up with beginnings and matters that repeat themselves down through the generations. If, as I think likely, the narrator and lawgiver are engaged in a common enterprise, a hypothesis that replaces the long-standing Graf-Wellhausen theory is called for. Such a hypothesis would question any sharp distinction between D and P and stress that Genesis–2 Kings is a virtually seamless work, an overarching storyline with collections of rules coherently incorporated into it. What remains unknowable are the laws available to the lawgiver before he reworked them in light of issues

in the narrative traditions; also the original forms of the stories, histories, legends, and myths that together make up these traditions.

The popular view about the biblical law codes reveals, I believe, a naive understanding of the relationship between law and society because it regards laws on the books, even ancient ones, necessarily as responses to problems in society.[6] While the view is true in a banal sense—how can the laws not reflect what their creators experienced in their own time and place[7]—it overlooks factors that render the link much more complex. Even a scrutiny of the contemporary situation in the United States casts doubt on a direct correlation. Most issues in law are settled out of court, not adjudicated. In the United States well over 90 percent of cases do not end up in court. The result is that we often do not know the rules, largely unwritten, that apply when these disputes are resolved. In this light, laws on the books even in a society as institutionalized as the United States are not the most accurate guides to what is going on in the legal life of American society.[8] The written rules largely furnish "directional signals or perhaps parameters for argument."[9]

In regard to my own view, I have to stress again that there is sometimes no obvious link between a law and its narrative source. Even where the connection is relatively clear, we still have to note the "twist" in the narrative that explains why the lawgiver went about setting down the law in the first place. A good example is Jacob's marriage to the two sisters Leah and Rachel, which prompts the rule in Deut 21:15–17 about the inheritance rights of the son of a hated wife. If he is the firstborn child, he must receive the primary inheritance in preference to any subsequent son by the loved, second wife. The twist in the narrative is the fact that Reuben, Jacob's firstborn son by the hated Leah, forfeits his right to primogeniture by lying with one of his father's concubines (Gen 35:22). Yet Jacob does not proceed to grant the right to the son born after Reuben. Instead, he confers it upon Joseph who, born long after other sons, is the offspring of the loved wife Rachel (Genesis 48). The lawgiver noted that even if Reuben had not offended, Jacob might still have given Joseph the primary blessing because of his special attachment to Rachel. The lawgiver's attention to the complication introduced by Reuben's conduct prompted the law. Its notable narrowness of scope is itself cause for reflection and alone points to a very particular set of circumstances such as we find in the Genesis narrative.

The relationship between law and narrative is both fundamentally simple and complex at the same time. A failure to recognize this double feature devalues the ancient scribes' accomplishment. For every law, the angle of view from which the lawgiver looked at a narrative incident must be worked out before we can comprehend the link between the law and its narrative source. The narrative in 1 Samuel 2 raises the topic of priests (the sons of Eli) eating sacred food that is not theirs to eat.

The lawgiver turned his attention to the more usual situation where the sacred food does belong to them and asked the question: when, nonetheless, can priests still not eat it? The rule in Lev 22:1–7 about unclean priests was the result. The exceptional situation when the layman David receives prohibited sacred food from the Nob sanctuary (1 Samuel 21) prompted the question about what laypeople ordinarily do at a sanctuary, the answer being that they normally give sacrifices there. The lawgiver took up the issue as to when this usual act might itself be prohibited. The rule against presenting blemished sacrifices was the result (Lev 22:17–33), a topic that no biblical narrative raises. The explanation why David's consumption of the sacred food prompted the lawgiver to deny unequivocally its legitimacy (Lev 22:10–16) is that in the narrative the priest acts wrongly and is not aware that he does so. Another facet of the narrative in 1 Samuel 21, when David claims to be sexually abstinent and consequently receives sacred food reserved for the priests, posed the issue: can laypersons, in fact, qualify to eat such food if they have been sexually abstinent? The lawgiver thought not. David's situation being a wholly abnormal one, the lawgiver proceeded nonetheless to consider in which area of standard Israelite life the provision of sacred food can be linked to the issue of sexuality. He consequently focused on the daughters of priests and on the circumstances when it was appropriate for them to eat sacred food (Lev 22:10–16). This is an issue that does not come up in the narrative source (or any other for that matter). Throughout the range of laws and institutions in Leviticus, we find the pattern: an atypical situation in a narrative, a correspondingly more typical one in a law.

The rules represent judgments on incidents that arose in history—as that history is presented in Genesis–2 Kings. No showbread, for example, should have been given to David at the Shiloh sanctuary, even if he had been in a state of cleanness (1 Samuel 21). In a way, the rules function to undo history, to ensure that wrongs of the past are not repeated. No priest, for example, can mourn his dead wife because he must not be associated with the uncleanness attaching to the Levite in Judges on account of how he treated his wife's corpse (Judges 19). Or, alternatively, the rules, making judgments on the nation's history by way of pondering its failures (Lev 26:40–42), are the ones that, depending on the circumstances in question, should have been followed.

Why did the author of Leviticus bother to set out his laws if he lacked the institutional means to put them in place? If he thought in practical terms at all, one possibility is that he hoped that land and temple might be restored and that he could provide guidance should that come about. Fundamentally, however, his aim was to engage memory, to extract wisdom from the experience of past generations, and to forge an identity for Israelites living, or about to live, in the midst of a foreign culture. The rules were to elicit recall and incorporate correction of what was contained

in the many traditions embedded in the narrative of Genesis–2 Kings. In Plato's words, the invention was to function as "an elixir or drug of both memory and wisdom."[10] Like Plato's laws and biblical wisdom counsel, the rules were educative, the emphasis being on creating the right attitude of mind and heart.

The book of Leviticus has contributed greatly to the notion that holiness represents "an absolute lack of sense of proportion."[11] But what probably accounts for the intensity of holiness in Leviticus—"Is this a culture besotted with defilement?" asks Mary Douglas[12]—is not that it is a reflection of ancient Israelite life, but that the laws incorporate something of the drama of biblical narratives. Although the lawgiver's aim was to approximate in ordinary life responses to the situations that he found in the narratives, especially the deity's responses, the dramatic incidents described in the narratives inevitably left their imprint. The extraordinary measures, for example, thought to be necessary when Israelites have skin diseases reflect the vivid measures adopted by the Philistines when they sought through their priests the Israelite god's aid in coping with the outbreak of tumors afflicting them.[13]

The entire enterprise of how laws came to be related to narratives is best thought of as the product of a school of scribes, the driving force for the exercise being Israel's decline in the face of foreign powers and a desire to arrest it by turning to the past to fashion a corporate personality. Those scribes who composed the book of Chronicles during the exile continued the same process of casting an eye on the past, even consulting the same sources (Genesis–2 Kings), and contributing new judgments (if not in the form of rules). On the foregoing assumptions, the composition of Genesis–2 Kings would have begun its existence as a private compilation in a school setting, but the wish might well have been that it have normative impact. There are parallels to this kind of development. The compilation of Jewish law, the *Shulhan Arukh*, the private work of Joseph Caro, the leading Sephardi scholar of the sixteenth century, came to have binding authority on Jewry a hundred years later.

Abbreviations

AB	Anchor Bible
AJCL	*American Journal of Comparative Law*
ANET	*Ancient Near Eastern Texts Relating to the Old Testament*, ed. J. B. Pritchard, 3rd ed. (Princeton, 1969)
ArOr	*Archiv Orientalni*
ASTI	*Annual of the Swedish Theological Institute*
ATD	Das Alte Testament Deutsch
AV	Authorized Version
BDB	F. Brown, S. R. Driver, and C. A. Briggs, *A Hebrew and English Lexicon of the Old Testament* (Oxford, 1906)
Bib	*Biblica*
BJS	Brown Judaic Studies
BLL	*Studies in Comparative Legal History: Collected Works of David Daube*, vol. 3, *Biblical Law and Literature*, ed. Calum Carmichael (Berkeley, 2003)
CB	Century Bible
CBC	Cambridge Bible Commentary
CBQ	*Catholic Biblical Quarterly*
CBSC	Cambridge Bible for Schools and Colleges
CH	Code of Hammurabi
CKLR	*Chicago-Kent Law Review*
DLJ	Duke Law Journal
EOW	*Studies in Comparative Legal History: Collected Works of David Daube*, vol. 4, *Ethics and Other Writings*, ed. Calum Carmichael (Berkeley, 2006)
GRBS	*Greek, Roman, and Byzantine Studies*
HLR	Harvard Law Review
HUCA	*Hebrew Union College Annual*

IB	Interpreter's Bible
ICC	International Critical Commentary
JBL	*Journal of Biblical Literature*
JCS	*Journal of Cuneiform Studies*
JJS	*Journal of Jewish Studies*
JPS	Jewish Publication Society
JPSTC	Jewish Publication Society Torah Commentary
JSOT	*Journal for the Study of the Old Testament*
JSOTSS	Journal for the Study of the Old Testament Supplement Series
JSQ	*Jewish Studies Quarterly*
LE	Laws of Eshnunna
LQR	*Law Quarterly Review*
LXX	The Septuagint
MT	Massoretic Text
NCBC	New Century Bible Commentary
NEB	New English Bible
NLF	*Natural Law Forum*
NRSV	New Revised Standard Version
NTJ	*Studies in Comparative Legal History: Collected Works of David Daube*, vol. 2, *New Testament Judaism*, ed. Calum Carmichael (Berkeley, 2000)
OTL	Old Testament Library
RIDA	*Revue Internationale des Droits de l'Antiquité*
RJ	*Rechtshistorisches Journal*
RSV	Revised Standard Version
SBLDS	Society of Biblical Literature Dissertation Series
SHR	*Scottish Historical Review*
SVT	Supplement *Vetus Testamentum*
TDOT	*Theological Dictionary of the Old Testament*, ed. G. J. Botterweck and H. Ringgren (Grand Rapids, Mich., 1980)
UCHLR	*University of Chicago Law Review*
UCLA	*University of California Los Angeles Law Review*
UF	*Ugaritische Forshungen*
VT	*Vetus Testamentum*
WBC	Word Bible Commentary
ZABR	*Zeitschrift für Altorientalische und Biblische Rechtsgeschichte*
ZAW	*Zeitschrift für die alttestamentliche Wissenschaft*

Notes

INTRODUCTION: THE NATURE OF BIBLICAL LAW

1. For the rule on kidnapping (Exod 21:16), see my *Origins of Biblical Law: The Decalogues and the Book of the Covenant* (Ithaca, 1992), 37–39; for the rules on leprosy and the appointment of a king (Deut 24:8, 9; 17:14–20), see my *Law and Narrative in the Bible* (Ithaca, 1985), 263–64.

2. See Carmichael, *Origins*, 37–39.

3. There is increasing recognition of just how detailed is the integrated character of Genesis–2 Kings. See S. McDonough, "'And David was old, advanced in years': 2 Samuel xxiv 18–25, 1 Kings i, and Genesis xxiii–xxiv,'" *VT* 49 (1999), 128–31; Craig Y. S. Ho, "The Stories of the Family Troubles of Judah and David: A Study of Their Literary Links," *VT* 49 (1999), 514–31; Dominic Rudman, "The Patriarchal Narratives in the Books of Samuel," *VT* 54 (2004), 239–49; John Harvey, "*Tendenz* and Textual Criticism in 1 Samuel 2–10," *JSOT* 96 (2001), 71–81. In the conclusion of a chapter, which is entitled "Genesis as Part of a Larger Unity," and which deals with the unity of Genesis–Kings, Tom Brodie states: "There is significant evidence not only that Genesis is unified but that the same is true of the larger body of the Primary History. Many problems within the Primary History remain unresolved, but as with Genesis, the weight of evidence is shifting, and the idea of literary unity is gaining plausibility. It is the simplest hypothesis that accounts for the data." See *Genesis as Dialogue: A Literary, Historical and Theological Commentary* (Oxford, 2001), 48.

4. Although enormously enhanced in the biblical writing of history, the feature in question is the one David Daube comments on: "All history-writing transfers features of one event or one personage to another, and, indeed, much history-acting is in imitation of previous occurrences." See David Daube, *He That Cometh* (London, 1966), 1; also in *NTJ*, 157. Cf. also, "Typology in Josephus," *JJS* 31 (1980), 21–25, also in *EOW*, 263–80.

5. Jacob Milgrom has produced a massive, erudite, and insightful three-volume work on the book of Leviticus in which he sets out the conventional mode of understanding Leviticus as law linked to actual history. In his *Leviticus 17–22*, AB 3A (New York, 2000), 1591–93, in a section devoted to a critique of my thesis about the relationship between law and narrative, he appears not to have taken in a fundamental point of my thesis. Misinterpreting my analysis as arbitrarily choosing narratives to illumine the laws, he simply ignores the way in which I find order in how the lawgiver proceeded. As will become clear, our approaches are largely irreconcilable and generally produce radically different results.

6. See Gerhard von Rad, *Deuteronomium*, ATD 8 (Göttingen, 1964), 109; Anthony Phillips, *Deuteronomy*, CBC (Cambridge, 1973), 166; J. H. Tigay, *Deuteronomy*, JPSTC (Philadelphia, 1996), 229, 390. They have to twist the meaning of the verb "to forget"—"to overlook" is favored—to support their interpretation.

7. On the role of remembering and forgetting in the Joseph story, see Barbara Green, *"What Profit for Us?" Remembering the Story of Joseph* (Lanham, Md., 1999), 196–217.

8 I borrow, respectively, Douglas Templeton's expression, *The New Testament as True Fiction: Literature, Literary Criticism, Aesthetics* (Sheffield, 1999), 76, and Christopher Marlowe's *The Jew of Malta*, act 1.

9. Milgrom, *Leviticus 17–22*, 2104, views the laws as solely serving practical ends. As for the element of creativity and literary invention when ancient writers set about thinking of serious matters, Plato says, "And whenever, for the sake of a rest, a man puts down accounts about things that always are and peruses accounts about becoming, thereby gaining a pleasure not to be repented of, then he would make with his life a temperate and prudent sort of play"; *Timaeus* 59C–D. See Peter Kalkavage, *Plato's Timaeus* (Newburyport, Mass., 2001), 34.

10. Like the Joseph story itself, the rule, with its idealistic tendencies, is a product of ancient wisdom counsel. From a legal point of view, considering established notions of property, sanctity of land, and theft, its permission to let a stranger go into a field and help himself to some grain is extraordinary. In LE 12, 13, an early Near Eastern code, a stranger discovered in one's grainfield is liable to a penalty even though he had as yet taken nothing. See Reuven Yaron, *The Laws of Eshnunna* (Jerusalem, 1969), 181, 182.

11. Walter Benjamin, *Illuminations: Essays and Reflections* (New York, 1968), 89. Writing about effective communication, the Greek philosopher Heraclitus claimed that the great communicators of the past "neither told, nor concealed, but indicated" (Plutarch, *Moralia* 21.404).

12. For Chinese Law, see Geoffrey MacCormack, *"Hsiang Hsing* and *Hua Hsiang:* The Problem of 'Symbolic' Punishments in Early China," *RIDA* 49 (2002), 297, 298; for Greek law, Andrew Szegedy-Maszak, "Legends of the Greek Lawgivers," *GRBS* 19 (1978), 199–209; for Roman law, H. F. Jolowitz, *Historical Introduction to Roman Law* (Cambridge, 1952), 4, 10; and for Scotland, Hector L. MacQueen, "Regiam Majestatem, Scots Law and National Identity," *SHR* 74 (1995), 1–20. The Vlax Rom (Gypsies) assert that their *kris* system of public assemblies to resolve disputes and formulate policies is an authentic, ancient form of Romani culture, which may even go back to the Indian *panchajat* system. In fact, the origin of the *kris* system appears to be in the Romanian village assemblies of the sixteenth century at the time when the Vlax Rom became enslaved in Romanian neofeudal society. See Thomas Acton, Susan Caffrey, and Gary Mundy, "Theorizing Gypsy Law," *AJCL* 45 (1997), 237, 247–49.

13. I should probably stress this point because there has grown up an extraordinary view that I claim the narratives generated the laws, as if the latter had never existed before they emerged reshaped under the influence of the narratives.

14. For Islamic law, see Jeanette Wakin's assessment of the work of Joseph Schacht, who pioneered its modern study, *Remembering Joseph Schacht (1902–1969)*, Islamic Legal Studies Program, Harvard Law School Occasional Papers 4 (Cambridge, Mass., 2003), 17.

15. James Watts examines the Pentateuch as a form of rhetoric, a combination of stories and lists of laws where the aim is to communicate Israelite identity. He notes the role of simi-

lar rhetorical combinations, accounts of historical origins and lists of stipulations, in other ancient literature. See *Reading Law: The Rhetorical Shaping of the Pentateuch* (Sheffield, 199), 40–45.

16. Raymond Westbrook, *Studies in Biblical and Cuneiform Law* (Paris, 1988).

17. Some nineteenth-century scholars did reckon with the distinct possibility that the narratives influenced the rules in the way in which I indicate. The example they focused on was the law of the king: "The author of Dt. 17:14–20 [law of the king] . . . was influenced, as he wrote, by his recollections of the narrative of Sam. (so Budde, *Richter und Samuel*, p. 183 f.; Cornill, *Einl.* par. 17.4). As the nucleus of 1 S. 8; 10:17–27a 12 appears to be pre-Deuteronomic . . . the latter alternative is not the least probable one." See S. R. Driver, *Deuteronomy*, ICC, (Edinburgh, 1902), 213. There is, to be sure, an increasing appreciation of the integrated nature of law and narrative in the Pentateuch, but there is a dearth of the kind of detailed analysis that I pursue. Nor has there been sufficient recognition of just how fundamental in character the link is. See David J. A. Clines, *The Theme of the Pentateuch*, JSOTSS 10 (Sheffield, 1978); Thomas Mann, *The Book of the Torah: The Narrative Integrity of the Pentateuch* (Atlanta, 1988); John Sailhamer, *The Pentateuch as Narrative* (Grand Rapids, Mich., 1992); Nanette Stahl, *Law and Liminality in the Bible*, JSOTSS 202 (Sheffield, 1995), James K. Bruckner, *Implied Law in the Abraham Narrative*, JSOTSS 335 (London, 2001). Sailhamer does sometimes link rules in Leviticus to narratives in Genesis (pp. 334–39). He does not say why he does so, but his position is similar to a long-standing one that goes back to Hellenistic times. Just as interpreters in response to the works of Homer and Virgil saw endless hidden truth in them by treating the relevant work as a seamless whole, so the Rabbis perceived the Bible as a unity, inspired by God, which contained all wisdom. In order to extract this wisdom, they proceeded as if every part illumined every other part. In my view, they go too far; only certain specific parts illuminate other specific parts.

18. Although many years ago I linked this rule to Jacob's acquisition of Leah (*Law and Narrative*, 210–14), it only became much clearer to me when Amantha Holcombe, who attended my Law School seminar at Cornell University in the Spring of 1999, argued for it independently. On aspects of the history of the rule in later Jewish law, see Ruth Langer, "*Birkath Betulim:* A Study of the Jewish Celebration of Bridal Virginity," *Proceedings of the American Academy for Jewish Research* 61 (Jerusalem and New York, 1995), 53–94.

19. See David Daube, "Black Hole," *RJ* 2 (1983), 181–82; also in *EOW*, 62, 63. For another example of a later author (book of Jubilees) formulating a judgment on a biblical incident, see chapter 3.

20. The classical historian Erich Gruen is skeptical that the historical critical method as applied to Jewish-Hellenistic literature from the time of Alexander's conquests to the early Roman Empire can provide us with conventional forms of historical knowledge; see *Heritage and Hellenism: The Reinvention of Jewish Tradition* (Berkeley, 1998). See my review in *American Historical Review* 105 (2000), 593–94.

21. J. E. Hartley, *Leviticus*, WBC 4 (Dallas, 1992), 440.

22. Baruch Levine, *The Book of Leviticus: Composition and Reception*, ed. Rolf Rendtorff and Robert Kugler (Leiden, 2003), 20, 21.

CHAPTER 1: LOOKING AT LEVITICUS: LEVITICUS 10–14

Epigraph: Cicero, *De Natura Deorum*, 2.67: *In omnibus rebus vim haberent maxumam prima et extrema.*

1. Scholars have long recognized, for example, that the laws presuppose later urban settlements. Lev 14:53 refers to urbanized settlements outside a city, which plainly would only have existed long after the desert period. While most scholars perceive the instructions for setting up the tabernacle in the wilderness as anticipating the Temple in King Solomon's reign, Jacob Milgrom additionally sees some of the instructions anticipating the earlier sanctuary at Shiloh; see *Leviticus 1–16*, AB 3 (New York, 1991), 32.

2. It is an arbitrary decision, and a future analysis will be devoted to Leviticus 1–7.

3. See S. R. Driver, *Introduction to the Literature of the Old Testament* (New York, 1916), 143, 144.

4. The convention that Moses anticipates the future so accurately is also found among the biblical prophets: they speak after an event as though magically speaking before it. The predictive feature in question is not much different from the one about United States law that Oliver Wendell Holmes sets out in a famous essay: "The prophecies of what the courts will do in fact . . . are what I mean by the law." The prophetic element involves the capacity to look back on the past intently and then to perceive that such and such a judgment could have been predicted. See O. W. Holmes, "The Path of the Law," *HLR* 10 (1897), 460.

5. Although in the biblical narration of events other sanctuaries existed before the one at Shiloh (Gilgal, Jos 4:19; Mizpah, Judg 11:11; Bethel, Judg 20:26; 1 Sam 10:3), the relevant texts convey no description of priestly conduct at them. See Roland de Vaux, *Ancient Israel: Its Life and Institutions* 2 (New York, 1961), 302–4. Milgrom also views a good deal of the material in Leviticus as reflecting what went on at the sanctuary at Shiloh as described in 1 Samuel 1–3. Although I have to stress that he does not cite the connections that I do, his view is that the origins of Leviticus go back historically to this sanctuary ("P is traceable to the Shilonite sanctuary"); see *Leviticus 1–16*, 34; cf. 32, 33, 222, 478. One major difference is that he treats 1 Samuel 1–3 as preserving historical information about the cult, whereas for me 1 Samuel 1–3 serves the sophisticated process of constructing a fiction about the original laws of Moses.

6. As Milgrom points out on the basis of 1 Chron 24:3, Eli's ancestor is Ithamar, the son of Aaron (*Leviticus 1–16*, 34).

7. Baruch Schwartz, *The Jewish Study Bible*, ed. Adele Berlin and Marc Zvi Brettler (Oxford, 1999), 228; Milgrom, *Leviticus 1–16*, 611.

8. Her husband, Elkanah, has a Levitical genealogy in 1 Chron 6:26, as P. Kyle McCarter, *1 Samuel*, AB 8 (New York, 1980), 58, points out.

9. The narrator of the history in 1 Samuel 1 at one point curiously uses the expression "the Tent of Meeting" for the Shiloh sanctuary (1 Sam 2:22). It is an anachronistic way of describing it because that sanctuary was an actual building (1 Sam 1:9; 3:3, 15), not a tent like the sanctuary, the Tent of Meeting, in Leviticus. The anachronistic description also points to a link between narrative and law, as other scholars suggest but make little or nothing of: for example, McCarter, *1 Samuel*, 81.

10. We might note that the duty to instruct the people can already be discerned in Eli,

who sees it as his priestly task to caution the layperson Hannah about being drunk in the sanctuary.

11. It is not clear why the sons do not consume the meat and why Moses regards the omission as an offense. The deaths of their brothers seem to be relevant to their decision to forgo indulging their appetite on the occasion.

12. This is the reading of MT, which is particularly interesting in light of the link with the law (if link there be) of Lev 10:10, 11, but it is commonly regarded as confusing and changed to a problematical meaning about how the people report the priests' misconduct. See H. P. Smith, *The Books of Samuel*, ICC (Edinburgh, 1904), 20, 21, for the problems. Peter Ackroyd is one scholar who upholds the MT reading in *The First Book of Samuel*, CBC (Cambridge, 1971), 36.

13. Like the two sons of Aaron who died, the sons of Eli come under a divine sentence of death on account of a cultic offense. Aside from their greed, they take meat that, despite the worshipers' protests, does not have the fat first burnt off. Their offense means that, in the service of God, they deliberately hold off using authorized fire. The capital offense for which Aaron's two sons die, we recall, is offering unauthorized fire at the wilderness sanctuary (Lev 10:1, 2). The offense in the first generation of Aaronide priests thus finds an uncanny echo in a subsequent generation. Such similar happenings attract the attention both of the recorders of the traditions and the lawgiver. On just how close are the links, linguistic as well as thematic, between the two stories, see John Harvey, "*Tendenz* and Textual Criticism in 1 Samuel 2–10," *JSOT* 96 (2001), 71–73. We may well be justified in viewing the write-up of the incident about Aaron's sons as etiological in character, as written up in anticipation of the offense of Eli's sons to underscore the latter's seriousness.

14. Other critics have also recognized the relevance of the Flood narrative to the comprehension of the food laws of Leviticus 11. See, for example, Schwartz, *The Jewish Study Bible*, 228, 229.

15. H. W. Hertzberg, *I and II Samuel*, trans. J. S. Bowden, OTL (Philadelphia, 1964), 32, follows the Hebrew text of 1 Sam 2:12, 13: "Now the sons of Eli were worthless men; they had no regard for the Lord, nor for what was due to the priest from the people."

16. Milgrom, *Leviticus 1–16*, 615.

17. Walter Houston discusses the relationship between Gen 7:2, 3 and Leviticus 11 in *Purity and Monotheism*, JSOTSS 140 (Sheffield, 1993), 145–48.

18. On the possible influence of Genesis 1 on Leviticus 11, see Mary Douglas, *Purity and Danger* (London, 1976), 41–57; Howard Eilberg-Schwartz, *The Savage in Judaism* (Bloomington, Ind., 1990), 219; John Sailhamer, *The Pentateuch as Narrative* (Grand Rapids, Mich., 1992), 332.

19. McCarter's description, *The HarperCollins Study Bible*, ed. Wayne A. Meeks (London, 1993), 426.

20. For instance, Milgrom, *Leviticus 1–16*, 746.

21. Eilberg-Schwartz refers to the "general consensus that circumcision increased in importance during the Babylonian exile (587–573 B.C.E.) as one way to prevent assimilation with Babylonians who were uncircumcised" (*The Savage in Judaism*, 164).

22. The verb *śatar*, "to break out," in 1 Sam 5:9 seems to imply that the tumors affecting

the Philistines broke the surface of the skin. See R. W. Klein, *1 Samuel*, WBC 10 (Waco, Tex., 1983), 51.

23. I find it puzzling that when other scholars discuss the laws about skin diseases in Leviticus 13 and 14 they either ignore the plague that affected the Philistines or choose to note it in passing but make nothing of it. Although he tries to be as comprehensive as possible in presenting any topic, Milgrom does not discuss the episode in 1 Samuel at all. Yet the Philistines make a comparison of their state with the plagues that afflicted the Egyptians (1 Sam 4:8), and Milgrom recognizes that the latter suffered afflictions affecting the skin. The term for swelling in 1 Samuel 5 is *'opel*, and its only other occurrence is in Deut 28:27 about God punishing the Israelites for their disobedience with Egyptian boils, tumors, scabs, and itches. Milgrom cites this Deuteronomic text as taken up with what, in Leviticus, he calls scale disease (rightly rejecting the misunderstood term leprosy). Giving priority to Near Eastern sources, David Wright states that he reluctantly omits evaluating the Philistine incident in his discussion about the disposal of impurity in Leviticus. P. Kyle McCarter comments on how the account of the return of the Ark "is filled with similarities to biblical purgative rites," but eschews further discussion. He even quotes, with an exclamation mark, one scholar who argued that there must have been a captured Israelite priest directing the Philistines. See, respectively, Milgrom, *Leviticus 1–16*, 821; Wright, *The Disposal of Impurity: Elimination Rites in the Bible and in Hittite and Mesopotamian Literature*, SBLDS 101 (Atlanta, 1987), 4, 5; and McCarter, *1 Samuel*, 138, 132. The many terms used in Leviticus 13, 14 for the various pathological conditions presumably reflect the lawgiver's contemporary knowledge of them. In this regard Milgrom's comments are most instructive. We must always bear in mind that the rare or extraordinary example of some matter in a narrative prompts the lawgiver's interest in the more familiar matter.

24. See J. E. Hartley, *Leviticus*, WBC 4 (Dallas, 1992), 197.

25. Milgrom, *Leviticus 1–16*, 850.

26. Ibid., 834.

27. The stance to medicine is one found in the Chronicler who condemns King Asa (fourth century B.C.E.) for consulting physicians (2 Chron 16:12). The king should have relied on God only. See David Daube, "Jehovah the Good," *S'vara* 1 (1990), 17–23; also in *BLL*, 891–98. Milgrom also emphasizes that it is God, not the priests, who promote the cure; see *Leviticus 1–16*, 887–89.

28. Milgrom, *Leviticus 1–16*, 780, 818.

29. An Israelite's clothing symbolically advertises adherence to his religion, for example, the tassels attached to his clothing proclaim his holiness: "You shall remember and do all my commandments [by looking upon the tassels], and be holy to your God" (Num 15:40). It presumably follows that mold or mildew on clothing constitutes a form of uncleanness that runs counter to the message of adherence to a state of holiness inherent in the tassels that the Israelite wears on his garment.

CHAPTER 2: GENITAL IMPURITY IN THE LINEAGES OF DAVID AND JONATHAN: LEVITICUS 15

Epigraph: Ben Jonson, *Epigrams*, ci. *Inviting a Friend to Supper.*

1. Milgrom speaks of the Ark thus, in *Leviticus 1–16*, AB 3 (New York, 1991), 638.

2. P. Kyle McCarter, *The HarperCollins Study Bible*, ed. Wayne A. Meeks (London, 1993), 450; Shimon Bar-Efrat, *Jewish Study Bible*, ed. Adele Berlin and Marc Zvi Brettler (Oxford, 1999), 601.

3. The law also chooses to single out a saddle as a particular object that the diseased male may render unclean when he sits on it. Why should riding come into focus at all? It happens that the major feature of David's life at this point in time is indeed the many journeys he has to embark on because he is a fugitive. Manifestly, he rides from place to place. In the corresponding rule about female menstruation, we shall see that Rachel's saddle plays a crucial role in the narrative incident that prompts the rule. In his feigned madness, David also makes marks on the door of a (wooden) gate in Gath. The law takes up uncleanness attaching to wooden vessels.

4. In the rule in Deut 21:18–21, about the rebellious son who is a glutton and a drunkard, the lawgiver drew on the depiction of Esau in the book of Genesis, who, given to primitive appetite, distresses his parents. He loses his birthright but should not have done so because, in fact, he does in the end heed his parents' concern about the kinds of women he is marrying. The lawgiver nonetheless drew on how Esau is portrayed in order to fashion a rule about a son who does prove incorrigible. See my *Law and Narrative in the Bible* (Ithaca, 1985), 146–50.

5. Although the rule is not, I think, focused on masturbation as such but probably with coitus interruptus, it is understandable to relate the topic to what came to be called (in eighteenth-century Catholic theology) onanism. René Spitz supplies a useful survey of the (often times extraordinary) history of masturbation as an offense, "Authority and Masturbation: Some Remarks on a Bibliographical Investigation," *Psychoanalytical Quarterly* 21 (1952), 490–527. He dates the earliest condemnation of the practice in the sixth century C.E. However, around the second century we have it condemned in *b. Nidd.* 13b; *b. Shab.* 118b. See L. M. Epstein, *Sex Laws and Customs in Judaism* (New York, 1948), 146–47.

6. Milgrom asks, in regard to the semen falling on the material cited, "Why are persons omitted here? Could it be that if semen touches another person it is not defiling? Hardly. A person is included, the only one imaginable—the sexual partner (vs. 18)." See *Leviticus 1–16*, 928.

7. Ibid., 930.

8. See Roland de Vaux, *Ancient Israel: Its Life and Institutions* 2 (New York, 1961), 383. Although no information is given about Tamar's sacred activity other than what is suggested by her possession of cultic garments, Judah's sexual relations with her also involve, however indirectly, cultic associations. It is a pity that we do not know more about the significance of the description of Tamar as a *qedeshah*. It clearly does not derive its significance solely from the one occasion when she has sexual relations with Judah who, at the time, is living among the Canaanites.

9. See, for example, R. W. Klein, *1 Samuel*, WBC 10 (Waco, Tex., 1983), 209.

10. Of Jesse, P. Kyle McCarter states, "According to the genealogical list preserved in 1 Chron 2:3–12 (cf. Ruth 4:17–22) Jesse was a Judahite of the house of Perez (Ruth 4:12; cf. Genesis 38) and the grandson of Boaz and Ruth" (*1 Samuel* AB 8 [New York, 1980], 276).

11. Martin Noth, *Exodus: A Commentary*, trans. J. S. Bowden, OTL (Philadelphia, 1962), 114.

CHAPTER 3: THE DAY OF ATONEMENT: LEVITICUS 16

Epigraph: David Hume, *An Enquiry Concerning Human Understanding*, VIII, part II, 76. Cf., "Lord, doest thou ever require of a man more than that he utter, I have sinned?" *Midrash* on 1 Sam 7:6.

1. P. Kyle McCarter in *HarperCollins Study Bible*, ed. Wayne A. Meeks (London, 1993), 427.

2. See my analysis in *Women, Law, and the Genesis Traditions* (Edinburgh, 1979), 57–65.

3. We are dealing with the creation of a legal fiction, interpreting something as a fact which, but for the interpretation, it would not be. J. W. Jones speculates that such devices may have originated in "the substitution, by a more enlightened and humane generation, of a beast or bloodless offering for a human sacrifice to the gods" (*The Law and Legal Theory of the Greeks* [Oxford, 1956], 305).

4. Ida Zatelli, "The Origin of the Biblical Scapegoat Ritual: The Evidence of Two Eblaite Texts," *VT* 48 (1998), 254–63, and my response, "The Origin of the Scapegoat Ritual," *VT* 50 (2000), 167–82.

5. D. P. Wright, *The Disposal of Impurity: Elimination Rites in the Bible and in Hittite and Mesopotamian Literature*, SBLDS 101 (Atlanta, 1987), 45–72.

6. Martin Noth, *Leviticus*, trans. J. S. Bowden, OTL (London, 1965), 119, 124. Noth's view represents the dominant one. Thus, more recently, Jacob Milgrom, *Leviticus 1–16*, AB 3 (New York, 1991), 44, 1021, 1071–79, who places the biblical ritual in a Near Eastern background but also works back from Rabbinic sources to explain distinctive features in it. He asserts that the origins of the Day of Atonement are "indubitably pagan" (p. 833).

7. Zatelli, "Origin," 263.

8. Wright, *Disposal of Impurity*, 72, 73; cf. 24, 25, 69. Noth is alert to the ambiguity that scholars create for themselves when they wonder how Azazel needs to be appeased by the gift of a goat, yet removes the sins of the sons of Israel (*Leviticus*, 124). There are extraordinarily tortuous attempts to explain the rite. For an account of some of them, see Nicolas Wyatt, "Atonement Theology in Ugarit and Israel," *UF* 8 (1976), 425–30.

9. Wright, *Disposal of Impurity*, 18.

10. See R. H. Charles, *The Apocrypha and Pseudepigrapha of the Old Testament* 2 (Oxford, 1913), 65. The link between the Day of Atonement and an actual day in the Joseph story might clarify why in biblical texts the rite was already called the *Day* of Atonement. An annual day for extirpating evil seems to be unique if we set the biblical Day of Atonement against (somewhat) comparable Near Eastern rites, the latter only occurring on emergency occasions. On this difference between the biblical and Near Eastern rituals, see Milgrom, *Leviticus 1–16*, 1013, 1061.

11. Wright, *Disposal of Impurity*, 39–43. Somewhat comparable is how the bow that appears in the cloud after the Flood (Gen 9:13) originally represents the bow with which God wages his battles (Exod 15:3; Hab 3:9, 11). Its placement in the cloud is a sign that God has ceased his hostilities against man. See Moshe Weinfeld, *Deuteronomy and the Deuteronomic School* (Oxford, 1972), 205, 206.

12. See Milgrom, *Leviticus 1–16*, 1016–17, who draws attention to and supports Wright's suggestion.

13. "After which they [linen garments] will be washed and rinsed," Milgrom paraphrases (*Leviticus 1–16*, 1048).

14. More recently, André Wénin has argued for a link between Leviticus 16 and Genesis 37; see "La tunique ensanglantée de Joseph (Gn xxxvii 31–33): Un espoir de réconciliation?" *VT* 49 (2004), 407–10.

15. See Milgrom, *Leviticus 1–16*, 1017.

16. In Gen 4:13, the Latin versions of the Bible, the Vulgate and Itala, *venia*, "forgiveness," occurs: "My iniquity [Cain's] is greater than that I can merit forgiveness." The original Hebrew is quite different. Philo is the earliest commentator to take the position that Cain's punishment did not deserve alleviation. Cain was made a fugitive to prolong his suffering, *Virt.* 37.200; *Praem.* 12.72–73; *Det.* 46.167–78; *Conf.* 25.122; *Fug.* 10.60–61. In Genesis 32, when Jacob sends a gift from his flocks to Esau, it is to appease him because Jacob fears that Esau is intent on destroying him. It would not do to claim that the gift represents a request for forgiveness.

17. There is no explicit mention that God forgives the brothers, nor for that matter do we hear that Jacob forgives them. In Genesis 49, when contemplating his death, Jacob has all his sons before him and, in regard to some of them, he recalls their misdeeds. For instance, he comments sarcastically on Judah, the ringleader in getting rid of Joseph, as the wild beast that tore him to pieces (Gen 49:9). In a way, Jacob's farewell address at the end of his life also acts as a declaration of sins on behalf of his sons.

18. In reality it is impossible. On laws, however, that can accomplish the impossible, see David Daube, "Greek and Roman Reflections on Impossible Laws," *NLF* 12 (1967), 1–84. The Mishnah gives practical advice: "If a man had repented they may not say to him, 'Remember thy former deeds'" (*m. B.M.* 4:10).

19. In the United States one finds sentences of the type where a slum landlord has to live in a building in which he housed tenants until repairs have been made to it. See Stephen P. Garvey, "Can Shaming Punishments Educate?" *UCHLR* 65 (1998), 736. Garvey has also written on how the central concern with forgiveness on the Day of Atonement, which is the basis for later Christian developments, has come to play a role in contemporary discourse about the treatment of criminals; see "Punishment as Atonement," *UCLA* 46 (1999), 1801–58.

20. In Jewish tradition we find the view that later generations had to atone for the brothers' offense because, as they understood the matter, it had not been expiated. See E. E. Urbach, *The Sages: Their Concepts and Beliefs* (Jerusalem, 1975), 1:521–23. As I indicated, each year on the Day of Atonement worshipers recite the poem *Eleh Ezkerah* about the ten martyrs who, during the reigns of Trajan and Hadrian, died to expiate, so the liturgy has it, the sin of Joseph's brothers some 1,500 years before. See Louis Finkelstein, "The Ten Martyrs," in *Essays and Studies in Memory of Linda R. Miller*, ed. Israel Davidson (New York, 1938), 29–55. In medieval Jewish prayers, particularly in the public confession of sins recited by the whole congregation, it is almost exclusively sins of man against man that are cited, not sins of man against God. Sins like violating the Sabbath or the dietary rules play a negligible part as compared with sins like malicious gossip or unfriendliness. The impact of the Joseph story may be a factor. The book of Jonah is the lesson from the Prophets that is read on the Day of Atone-

ment, and it is noteworthy that, like the goat in the ritual, the lesser creatures in Jonah play a major role in communicating facets of human wrongdoing.

21. Erhard Gerstenberger, *Leviticus*, trans. D. W. Stott, OTL (Louisville, Ky., 1996), 220.

22. See Jacob Milgrom, "Day of Atonement," in *Encyclopaedia Judaica*, vol. 5 (Jerusalem, 1971), 1384; also *Leviticus 1–16*, 1034.

23. Their cheating with the animal has a parallel in Jacob and Rebekah's substitution of a domestic animal for game in order to cheat Esau out of his father's blessing.

24. Baruch Levine, *Leviticus*, JPSTC (Philadelphia, 1989), 102. In Genesis 38, the name *'ônan* (Onan, the "virile, virile one") is a doubling of *'ôn*, "virility," in order to mock the use he made of his. There are critics who drop the reference to a goat in the name Azazel and suggest that *'z'zl* is a metathesis of *'zz-'l*, "fierce god." They do so because of their view that Azazel was once a demonic figure "who has been eviscerated of his erstwhile demonic powers by the Priestly legislators" (Milgrom, *Leviticus 1–16*, 1021). H. Tawil, for example, openly admits that this supposed development prompted his attempt to explain the etymology. The name of the original being, he postulates, was deliberately altered "to conceal the true demonic nature of this supernatural being" ("Azazel the Prince of the Steppe: A Comparative Study," ZAW 92 [1980], 58). Wright views Azazel in Leviticus 16 as a figure devoid of personality in contrast to the demonic figures that he chooses to compare it with in the Hittite and Mesopotamian sources. If Azazel is a fictional creation, however, along the lines I suggest, it is hardly surprising that Wright comes to the conclusion he does; see *Disposal of Impurity*, 72, 73.

25. See Charles, *The Apocrypha and Pseudepigrapha*, 2:250.

26. Levine points out that the verb *hitvaddah* in Lev 16:21 means "to reveal oneself" in the matter of one's sins and is the opposite of concealing them. See *Leviticus*, 106.

27. So Gerstenberger, *Leviticus*, 220. He asks how theologians of the fifth century B.C.E. could have countenanced the "polytheistic idea" of Azazel as a supernatural being (p. 221). For him the entire ritual seems quite opposed to early Jewish belief.

28. It would not do for a dog owner seeking his lost pet to put a notice in the newspaper that only said, "Here, boy!" In the rituals for removing skin diseases from the Philistines (1 Sam 6:7, 8) and the Israelites (Lev 14:4–7, 49–53), the cows and the birds also take themselves off to distant parts without any human prompting. I agree, however, with Thomas Staubli, "Die Symbolik des Vogelrituals bei der Reinigung von Assätigen (Lev 14, 4–7)," *Bib* 83 (2002), 230–37, that the bird ritual should not be interpreted as solely involving similar ideas of elimination of evil as in the scapegoat ritual.

29. *Targum Yerushalmi* on Lev 16:21 copes with the problem by having God send a gust of wind that hurls the goat down a precipice to its death.

30. Contrary to the view of R. H. Charles, *The Book of Jubilees* (London, 1917), 171: "The reason [Jacob's mourning on account of what the bloodstained coat signified] here given for the institution of the Day of Atonement (cf. Lev. xvi.) seems to be peculiar to our Book." Despite ranging over Rabbinic sources, Wright and Milgrom curiously pay no attention to what, earlier than these sources, the author of Jubilees has to say about the Day of Atonement. In the Judaism of the last centuries B.C.E., other laws in the Pentateuch came to be linked to events recounted in it. Thus the Feast of Weeks commemorated the promulgation of the Law on Sinai, and the Feast of Booths the forty years' sojourn of the Israelites in the wilderness. See Bent Noack, "The Day of Pentecost in Jubilees, Qumran, and Acts," *ASTI* 1 (1962), 73–95.

Those responsible for such linkages may have extended to other institutions the kind of link that I claim is detectable for the institution of the Day of Atonement.

31. Maimonides, *Guide of the Perplexed*, trans. Shlomo Pines (Chicago, 1963), part III 46 (p. 589); also *Siphra* on Lev 9:3. See also Louis Ginzberg, *The Legends of the Jews* (Philadelphia, 1946), 2:27, nn. 62 and 65; Urbach, *The Sages*, 521–23; and Jacob Neusner, ed. *Sifra: An Analytical Translation*, BJS 139, 2 (Atlanta, 1988), 125.

32. See Milgrom, *Leviticus 1–16*, 1013, 1034, 1061, 1071–79.

33. Wright, *Disposal of Impurity*, 5, 52.

CHAPTER 4: THE SLAUGHTER OF ANIMALS: LEVITICUS 17:2–9

Epigraph: Lord Esher in *Leeds Permanent Benefit Building Society v. Mallandaine* (1897) 3 T.C. 577 at 590 (R. E. Megarry, A *Second Miscellany-at-Law* [London, 1973], 260).

1. I am not at all persuaded by arguments that H is originally a different document from P.

2. So J. E. Hartley, *Leviticus*, WBC 4 (Dallas, 1992), 270–71; Baruch Levine, *Leviticus*, JPSTC (Philadelphia, 1989), 113; A. Noordtzij, *Leviticus*, trans. R. Togtman (Grand Rapids, Mich., 1982), 174–75. So interpreted, the law is not addressing the issue of ordinary slaughter of animals for eating purposes and, accordingly, is not in conflict with Deut 12:15, 16. The latter focuses on permitting profane slaughter, the former (Lev 17:2–7) on ensuring that "an animal intended for an offering of well-being has to be slaughtered at the altar" (Hartley, p. 271). In support of his position Hartley further points out that only animals without defect could be presented at the altar (Lev 1:3; 3:1). If all animals, even those for eating, had to be brought to the altar we would expect a rule dealing with defective animals for eating purposes, and none is given. Hartley concludes, "The close tie between slaughter and sacrifice in the ancient mind made this regulation [Lev 17:2–7] necessary. Yahweh wished to make sure that the profane slaughter of clean animals without defect in an open field was not turned into a sacrificial ritual, for such practice would be prone to becoming polluted with pagan customs, such as believing that these quasi sacrifices placated the spirits of the field" (p. 271). Hartley's statement, however, ends up making profane slaughter decidedly problematical. Previously, he is at pains to say that the rule is not concerned with profane slaughter at all.

3. Correctly noted by Jacob Milgrom, *Leviticus 17–22*, AB 3A (New York, 2000), 1452.

4. The issue about how to date D in relation to P starts in 1882 with Julius Wellhausen in his *Prolegomena to the History of Ancient Israel*, trans. J. S. Black and A. Menzies (Gloucester, Mass., 1957), 376–85.

5. Compare how the general statement in Lev 22:2 is, despite appearances, similarly restrictive: "Speak unto Aaron and his sons that they separate themselves from the holy things of the children of Israel and that they profane not my holy name in those things which they hallow unto me." The statement, in fact, refers only to priests who are unclean, as the subsequent details of Lev 22:2–9 make clear.

6. A rule that shows up in a law code as comprehensive in scope often has its origin in a limited set of circumstances, but it is often difficult to detect the original situation that gave rise to the rule. Many maxims in Justinian's *Digest* are of this sort. Alan Rodger provides a good example in, "Roman Gifts and Rainwater," *LQR* 100 (1984), 77–85.

7. See Jacob Milgrom, "Does H Advocate the Centralization of Worship?" *JSOT* 88 (2000), 59–76; also *Leviticus 17–22*, 1503–14.

8. See L. E. Elliot-Binns, "Some Problems of the Holiness Code," *ZAW* 67 (1955), 30–40; Milgrom, "Centralization," 59–76. They omit to note that S. R. Driver (and others) had considered such a view in *Deuteronomy*, ICC (Edinburgh, 1902), 138, 146. According to Milgrom "the innovative mind of H" is responsible for requiring that any slaughter is to be a sacrifice and adds, "To judge by D's subsequent reversion to nonsacrificial slaughter H's law—if enacted at all—could not have lasted very long" (*Leviticus 17–22*, 1453). Little wonder, because I doubt that any such requirement ever existed.

9. See Jacob Milgrom, *Leviticus 1–16*, AB 3 (New York, 1991), 710.

10. Martin Noth, *Leviticus*, trans. J. S. Anderson, OTL (Philadelphia, 1965), 130.

11. Milgrom, "Centralization," 64.

12. See Hartley's criticism of this common view, in *Leviticus*, 270.

13. See also Calum Carmichael, "The Story of Joseph and the Book of Jubilees," in *The Dead Sea Scrolls in Their Historical Context*, ed. T. Lim, L. Hurtado, A. Graeme Auld, and A. Jack (Edinburgh, 2000), 143–58.

14. There is consequently no need to argue, as critics commonly do, that the material in Leviticus 17 is from a source H different from the material in Leviticus 16. P. Erhard Gerstenberger, for example, in *Leviticus*, trans. D. W. Stott, OTL (Louisville, Ky., 1996), 234, sees no specific relationship with the Day of Atonement in Leviticus 16. However, the story of Joseph is central to an understanding of both Leviticus 16 and 17.

15. So Gerstenberger, for example (ibid., 234): "Such a distinction between sacred and secular slaughter was a non-thing to the ancient way of thinking."

16. See David Daube, "On Acts 23: Sadducees and Angels," *JBL* 109 (1990), 493–97; also in *NTJ*, 841–45.

17. Noth states, "Apparently, the slaughter itself did not have to be performed at any particular place, but the slaughtered animal with its blood drained off into a vessel had to be brought to the holy place for carrying out the peace-offering ritual" (*Leviticus*, 129). Similarly, N. H. Snaith, *Leviticus and Numbers*, CB (London, 1967), 119.

18. L. R. Bailey, *The Oxford Study Bible*, ed. M. Jack Suggs, K. D. Sakenfeld, and J. R. Mueller (Oxford, 1992), 124, plainly says of verse 3, "The animals are here intended for food." The fact that he has to state this intention as the reason for killing them—he somewhat misleadingly uses the plural, the rule itself speaking in the singular of "an ox, or a lamb, or a goat"—indicates that the matter is not manifest.

19. *Siphra* on Lev 17:3, 4 is alert to the issue and in light of Lev 17:5, 7 opts (wrongly, I think) to restrict the meaning about killing an animal to a religious sacrifice. *šaḥaṭ* (v. 3) can mean to slaughter in general or to slaughter a sacrifice. See Levine, *Leviticus*, 112; Hartley, *Leviticus*, 269, 271.

20. Milgrom, *Leviticus 1–16*, 749.

21. Levine points out (*Leviticus*, 112) that the complete formula, "any man of the house of Israel," occurs only in Leviticus 17 (also in vv. 8 and 10) and Ezek 14:4, 7.

22. There are other rules that are odd in character because the intention is to arouse the recipient's curiosity—for example, the rules about forbidden mixtures that on the face of it prohibit perfectly sensible usage. See Carmichael, *Law, Legend, and Incest in the Bible:*

Leviticus 18–20 (Ithaca, 1997), 102–4. I shall also note the same feature for the rules about the sabbatical and Jubilee years. Also recall the example of the law of the forgotten sheaf of grain in my introduction.

23. Milgrom, *Leviticus 1–16*, 710.

24. See J. W. Jones, *Law and Legal Theory of the Greeks* (Oxford, 1956), 62: "No legal system, in the West at least, followed Pythagoras so far as to declare killing animals to be murder."

25. On the link between Leviticus 17 and Genesis 9, see Marc Vervenne, "'The Blood Is the Life and the Life Is the Blood': Blood as Symbol of Life and Death in Biblical Tradition (Gen. 9,4)," in *Ritual and Sacrifice in the Ancient Near East*, ed. J. Quaegebeur, Orientalia Lovaniensia 55 (Leiden, 1993), 468.

26. Milgrom, *Leviticus 17–22*, 1461.

27. So Noth, *Leviticus*, 131; Hartley, *Leviticus*, 272; Baruch Levine, *Numbers 1–20*, AB 4A (New York, 1993), 257.

28. NEB translates 2 Kgs 23:8 as "the hill-shrines of the demons" when describing King Josiah's destruction of foreign elements in Israelite worship of his time. MT reads "gates" for "demons," and it is understandable why NEB and many other translations opt for the latter. The goat demons cited in the rule in Lev 17:7 are also cited in 2 Chron 11:15 in the reign of Jeroboam in the Northern Kingdom, but not in any corresponding passage in Kings. The Chronicler usually shows no interest in the Northern Kingdom—unless the matter relates to the Kingdom of Judah—because he regards it as having no legitimacy. It is difficult to make an accurate assessment of these texts. We may have an example of a matter known to the writer of Leviticus in his own time, which he incorporated in his law, and the reference in 2 Chron 11:15 may reflect the influence of Leviticus on the Chronicler, not the other way round.

29. Isaiah also associates these demons with wild beasts and the destruction of the previously glorious Babylon (Isa 13:19–22). The aim of the brothers' action, which they attribute to a goat or wild beast, is to be rid of Joseph's previously elevated status as first among them.

30. It is why Hartley states: "A puzzling aspect . . . is the inclusion of both the first and second laws (vv4–5 and vv8–9), for their goal is so similar that to the modern mind they appear redundant" (*Leviticus*, 265).

31. Milgrom, *Leviticus 1–16*, 483.

CHAPTER 5: THE BLOOD TABOO: LEVITICUS 17:10–16

Epigraph: Marc Vervenne, "'The Blood Is the Life and the Life Is the Blood': Blood as Symbol of Life and Death in Biblical Tradition (Gen. 9,4)," in *Ritual and Sacrifice in the Ancient Near East*, ed. J. Quaegebeur, Orientalia Lovaniensia 55 (Leiden, 1993), 460.

1. Jacob Milgrom, *Leviticus 1–16*, AB 3 (New York, 1991), 704, 705. What constitute Milgrom's specific criteria for rating the blood prohibition above the rules in the Decalogue are not made clear. It is difficult to imagine that the biblical author thought along the lines that what is universally applicable is more important than what is applicable to Israel (a number of whose rules in the second tablet of the Decalogue being equally universal in scope). Why must we assume that the idea of rating was an issue at all?

2. Ibid., 706. Marc Vervenne states, "Neither the Mesopotamian, Hittite or Egyptian concept of offerings to the gods nor the Greek and Levantine ones attribute importance to blood

as such . . . there is little evidence that blood is purificatory." See "'The Blood Is the Life and the Life Is the Blood': Blood as Symbol of Life and Death in Biblical Tradition (Gen. 9,4)," in *Ritual and Sacrifice in the Ancient Near East,* ed. J. Quaegebeur, Orientalia Lovaniensia 55 (Leiden, 1993), 458. I shall argue that the basis of the biblical prohibition is not the cult but intellectual inquiry of the kind that occurs in Genesis 9. The comparison these scholars make is thus a misleading one.

Regarding the Arabs, Milgrom cites W. Robertson Smith, *The Religion of the Semites* (New York, 1957), 234. When Milgrom and other scholars so comment, it has to be emphasized that they are talking about blood alone, independent of its consumption with animal flesh. Such comparisons, however, are irrelevant to the biblical rule. Claus Westermann, *Genesis 1–11,* trans. J. J. Scullion (Minneapolis, 1984), 465, supports the view of Benno Jacob that "It is therefore the pulsating . . . life-blood of which it is forbidden to partake, immediately after wounding or killing [the animal]." But they too think that the prohibition is solely against drinking the blood. Thus Westermann goes on to claim that the prohibition is about killing the animal for the sake of killing, that is, to satisfy a thirst for blood.

3. Milgrom, *Leviticus 1–16,* 713.

4. Jacob Milgrom, *Leviticus 17–22,* AB 3A (New York, 2000), 1470, rightly emphasizes that the use of the verb to eat in regard to the blood means that it "is ingested in the course of eating meat."

5. Milgrom simply takes it for granted that "Israel's blood prohibition cannot be passed off as an outlandish vestige of some primitive taboo but must be adjudged as the product of a rational, deliberate opposition to the prevailing practice of its environment" (*Leviticus 1–16,* 706). Although Milgrom does not think that the Israelite understanding about the blood is from the distant past, he nonetheless thinks that it is a reaction to very ancient, assumedly primitive activity among Israel's neighbors. Erhard Gerstenberger, *Leviticus,* trans. D. W. Stott, OTL (Louisville, Ky., 1996), 240, does speak of the blood taboo in ancient Israel as coming "from an extreme historical distance."

6. See Calum Carmichael, *Law, Legend, and Incest in the Bible: Leviticus 18–20* (Ithaca, 1997), 38–41.

7. See Gerstenberger, *Leviticus,* 235, 240, 243. Toward the end of the first century C.E., Rabbis Gamaliel and Simeon ben Azzai considered the prohibition of blood one of the easiest commandments to keep because man had no natural craving for the taste of blood (*Siphre* on Deut 12:23; *b. Makk.* 23b). In 1 Sam 14:32, the Israelites are faint from hunger after a battle, "And the people flew upon the spoil, and took sheep, and oxen, and calves, and slew them on the ground: and the people did eat them over [*'al*] the blood." I am skeptical that they eat them with (*b* as in Gen 9:4, or *'im* as in Deut 12:23) the blood. The meaning is, I think, that *after* they slaughter the animals, their feasting celebrates the death of their enemies by standing over the blood that has spilled to the ground. See Carmichael, *Law, Legend, and Incest,* 122. H. W. Hertzberg too does not think that the offense is eating raw flesh with blood (*I and II Samuel,* trans. J. S. Bowden, OTL [Philadelphia, 1964], 115–16).

8. The Rabbis were alert to the peculiarity of the rule when one authority states, "If a man who refrains from eating blood, against which a man revolts, is rewarded . . . " (*Makk.* 3:15).

9. For example, does he mean, as I take it he does, more than just the ordinary fact that any consumed meat has blood in it. J. E. Hartley, *Leviticus,* WBC 4 (Dallas, 1992), 273.

10. For Baruch Schwartz, see "Prohibitions Concerning the 'Eating of Blood,'" in *Priesthood and Cult in Ancient Israel*, ed. Gary Anderson and Saul Olyan, JSOTSS 125 (Sheffield, 1991), 62; for Daube, see *Ancient Jewish Law* (Leiden, 1981), 56; also in *BLL*, 396.

11. *Letter of Aristeas* 146 so interprets. N. H. Snaith, *Leviticus and Numbers*, NCBC (London, 1967), 86, is one modern interpreter who also views the prohibition in this way.

12. The Passover rules incorporate strange actions with the same purpose of engaging the recipients' memory.

13. Gerstenberger also thinks that the prohibition against consuming blood is not a response to any real-life situation (*Leviticus*, 243).

14. Like the formulation of many a biblical proverb, biblical rules often involve such reversals. For example, Potiphar's wife's sexual misconduct with the bondman Joseph prompts the rule in Lev 19:20–22 about the sexual violation of a bondmaid by a free Israelite. See Carmichael, *Law, Legend, and Incest*, 108–13.

15. Vervenne, "The Blood Is the Life," 468. Critics have also long recognized the Priestly writer's hand in the Joseph story. See Gerhard von Rad, *Genesis*, trans. John H. Marks (London, 1972), 343; Claus Westermann, *Genesis 37–50*, trans. J. J. Scullion (Minneapolis, Minn., 1986), 160.

16. The concern with what makes us different from the animals has a long history. It begins with the savage Enkidu in the Epic of Gilgamesh who separates from the animals after his intercourse with a pleasure girl. The latest attempt I have come upon to address the phenomenon of humans as animals is Michael Newton, *Savage Girls and Wild Boys: A History of Feral Children* (London, 2001). The topic has many facets. For Aristeas and Paul, God gave no commandments solely for the sake of beasts (*Letter of Aristeas* 150; 1 Cor 9:9), but for Josephus and the Rabbis he did (*Ant.* 4.8.21.233; *Siphre* on Deut 25:4; *b. B. M.* 88b). See David Daube, "Allegorizing," in *BLL*, 768. In Jonah 4:11, the inclusion of mindless creatures in the Ninevites' act of penitence is to highlight the human plea of ignorance.

17. "It does not seem that any animal naturally wars against man, except in the case of self-defense or of extreme hunger, or that any bears him those violent antipathies that seem to announce that one species is destined by Nature to serve as fodder for the other" (Jean-Jacques Rousseau, *The Discourses and Other Early Political Writings*, ed. Victor Gourevitch [Cambridge, 1997], 136). There is the story of the holy man in the desert who was attacked by a hungry lion. As the lion pounced, the man prayed to God for a miracle. In midair the lion dropped to its knees and was heard to say, "I thank thee, God, for this thy bounty that thou hast so generously set before me!" For instances where wild dogs and birds of prey consume the flesh and blood of already dead humans, see 1 Kgs 14:11, 16:4, 21:23, 24; 2 Kgs 9:10, 36; Jer 15:13. In his *History*, 1.140, Herodotus cites the Persian burial custom where the corpse is given over to wild creatures.

18. There is thus much more to the prominence of the beast's act of homicide than Westermann's explanation allows when he states that "the human has cared, provided for and protected the animal so that it becomes part of one's community" (*Genesis 1–11*, 466). Why this observation should explain priority of attention to the beast's act does not emerge. Equally puzzling is why Westermann focuses on domestic animals that kill because the term for an animal (*ḥaya*) can by itself refer to wild animals or predators. See *TDOT* 4:342. It is surely the

reference here, not the killing by a domestic creature (of the kind occurring in a rule in Exod 21:28). The Septuagint has *thēria* "wild beasts."

19. As to our distinguishing between humans and animals, we are in the habit of eating dead animals but not dead humans because we wish to assert the superiority of our species. Another rule in Leviticus that opposes the abolition of the distinction between humans and animals is the prohibition against bestiality (Lev 18:23; 20:15).

20. Interpreting the prohibition of Gen 9:4 to mean eating meat cut from a living animal, the Rabbis do, in fact, claim that Joseph made this allegation against his brothers (*Gen. Rab.* on Gen 37:7). My sense is that, puzzled by the Bible's need for prohibiting the human consumption of blood, they speculated about such a possibility in the incident with the goat.

21. To a lesser extent, the narrator of Gen 25:27–34 judges Esau, whom he depicts as a man of inordinate lust for meat, as someone whose appetite is bestial in character.

22. Although referring to a human being, the law in Lev 17:10 nonetheless speaks of the soul (*nepeš*) as the offender. The term *nepeš* can be human or animal (the latter in Lev 17:11).

23. Grammatically, as Rashi the medieval Jewish scholar saw, this translation is the correct reading of the Hebrew. The two nouns in the phrase *miṭereph beni* stand together in a construct-genitive arrangement. Only an apologetic need to give Judah a favorable rating, coupled with a failure to recognize the ancient writer's irony, has led to a misreading of the text as "from the prey, my son, thou went up." See Calum Carmichael, "Some Sayings in Genesis 49," *JBL* 88 (1969), 435–44.

24. A similar metaphor is applied to Israel's defeat of its enemies in Num 23:24. Comparing Israel to a lion, the seer Balaam predicts that "he shall not lie down until he eat of the prey and drink the blood of the slain."

25. Gerstenberger, *Leviticus*, 234, is wrong to claim that the reference to atonement in Lev 17:11 is "clearly recognizable as an addition." It is his way of acknowledging the puzzling juxtaposition of topics.

26. When in his rule in Lev 17:13 about hunting a game animal or bird the lawgiver states that its blood must be covered (*kasah*) with dust, he recognizes that in that situation the blood should be covered. Unlike killing a fellow human, it is, up to a point, acceptable to kill an animal or a bird. Again, as so often, the occurrence of a wrongdoing in the story prompted the lawgiver to set out a situation where there can be endorsement for an act that parallels the unacceptable one in the story. Even this endorsement, however, carries with it unease about violence in the created order.

27. Their offense is kidnapping and the two laws laying down a capital sentence for it in Exod 21:16 and Deut 24:7 take up the matter of Joseph's fate. See Calum Carmichael, *Law and Narrative in the Bible* (Ithaca, 1985), 261–62; and *The Origins of Biblical Law* (Ithaca, 1992), 109–12.

28. N. Kiuchi, *The Purification Offering in the Priestly Literature: Its Meaning and Function*, JSOTSS 56 (Sheffield, 1987), 102–3, and Hartley, *Leviticus*, 274, 275, decisively refute Milgrom's arguments (*Leviticus 1–16*, 222, 706–11) that in the law the blood is solely about expiation for murdering an animal in the, perfectly legitimate, act of slaughtering it.

29. *TDOT* 9:514.

30. Compare how Joseph's replacement of the money in the brothers' sacks of grain is not seen as a generous act, but as cheating in the matter of giving correct weights and measures.

The incident prompts the formulation of the rule about correct weights and measures in Deut 25:13–16 and Lev 19:35–37. See Carmichael, *Law and Narrative*, 299–303; *Law, Legend, and Incest*, 143–45.

31. Hartley, *Leviticus*, 274.

32. Milgrom, *Leviticus 1–16*, 708, 710.

33. Hartley, *Leviticus*, 276. Note the plural in the rule's formulation: "I have given to you . . . to make atonement for your souls." In the story all the brothers, the sons of Israel, are guilty.

34. When the brothers bring the blood-soaked coat to Jacob and he acknowledges it as evidence that Joseph has been "torn, torn" (by a wild animal), it is legal recognition on Jacob's part that the brothers are absolved of any responsibility for his death. See David Daube, *Studies in Biblical Law* (Cambridge, 1947), 3–5; also in *BLL*, 30–32.

35. See Carmichael, *Law, Legend, and Incest*, 15–18, 42.

36. By a typical reversal, the rule in Lev 19:20–22 about the sexual violation of a bondmaid takes up this difference in status—where a woman, not a man, has the lesser standing See Carmichael, *Law, Legend, and Incest*, 108–13.

37. The attachment of rules to stories in Genesis (the prescriptions to Noah in Gen 9:3–6, circumcision in Gen 17:10–14) has long been recognized and attributed to the Priestly writer. See R. H. Pfeiffer, *Introduction to the Old Testament* (New York, 1941), 210.

38. The Egyptian Story of the Two Brothers may be a precursor of the Joseph story. As originally conceived it had gods as its actors; only later did they become human actors (when the extant version of the tale was written about 1225 B.C.E.). See A. Erman, *The Literature of the Ancient Egyptians*, trans. A. M. Blackman (London, 1927), 150–61, and *ANET*, 23–25. I have argued elsewhere that we have in the Pentateuch an example of a story, the making of the man-made god, the Golden Calf, in Exodus 32, prompting the composition of another story, the creation of the world, humans, animals, and plants, in Genesis 1. See Calum Carmichael, *The Story of Creation: Its Origin and Its Interpretation in Philo and the Fourth Gospel* (Ithaca, 1996), 7–25.

CHAPTER 6: MOURNING AND MARRIAGE RULES FOR PRIESTS: LEVITICUS 21

Epigraph: Agamemnon, in Seneca's *Troades* 290: *Qui non vetat peccare cum possit iubet.*

1. J. E. Hartley, *Leviticus*, WBC 4 (Dallas, 1992), 347.

2. René Péter-Contesse and John Ellington, *A Translator's Handbook on Leviticus* (New York, 1990), 316. They summarize the various attempts to explain it.

3. Baruch Levine, *Leviticus*, JPSTC (Philadelphia, 1989), 142.

4. See Calum Carmichael, *Law, Legend, and Incest in the Bible: Leviticus 18–20* (Ithaca, 1997), 180–82. A rule in Lev 18:16 prohibits intercourse with a brother's wife. If the rule includes within its scope intercourse for the purpose of raising a child to a dead brother, the levirate custom, then the author of Leviticus may have opposed the custom because of his antipathy to involvement with the dead.

5. G. R. Driver unconvincingly argues that the verb *zanah* is not the usual "to whore" but another verb, attested nowhere else in the Old Testament, "to be angry." See "Mistranslations in the Old Testament," *Die Welt des Orients* 1 (Göttingen, 1947), 29–30. One of R. G. Boling's

arguments against accepting the MT is his claim that "As Israelite law did not allow for divorce by the wife, she became an adulteress by walking out on him." He is correct in stating that a woman could not divorce her husband, but she was indeed free to walk out on him, a quite different action. Boling cannot accept the view that she prostituted herself, but seems to introduce much the same idea by claiming that she is an adulteress. I presume he does so because he is trying to explain why the MT has the reading about harlotry. See *Judges: A New Translation with Introduction and Commentary*, AB 6A (New York, 1975), 274.

6. It may be another example of "desexing," the inclination to remove (in selected instances) the sexual from language, actions, and institutions. The LXX is especially given to the process. See Calum Carmichael, "Desexing," *RJ* 17 (1998), 266–82. Another example may be the omission in some of the Greek translations of the sexual depravity of the priestly house of Eli in 1 Sam 2:22. See E. L. Greenstein, "Removing the Women Who Served at the Entrance," in *Studies in Historical Geography and Biblical Historiography*, ed. G. Galil and M. Weinfeld (Leiden, 2000), 170; also John Harvey, "*Tendenz* and Textual Criticism in 1 Samuel 2–10," *JSOT* 96 (2001), 72–73.

7. Compare how Lot's daughters sexually abuse him, in part because it mirrors how he offered them for the sexual enjoyment of the men of Sodom (Genesis 19).

8. The practices in question—they establish sympathetic contact between the living and the dead—were a feature of both Canaanite and Israelite culture (Isa 15:2, 22:12; Jer 16:6; Amos 8:10; cf. 1 Kgs 18:28). On how food that is offered to a deceased person does likewise, see S. R. Driver, *Deuteronomy*, ICC (Edinburgh, 1902), 291, 292.

9. The text affords no support to Gordon Wenham's claim that the additional designation of the sister's having a husband is necessary because the term virgin by itself can mean a woman of marriageable age who may not be virginal. See "*Betulah*: 'A Girl of Marriageable Age,'" *VT* 22 (1972), 326–48.

10. See BDB, 766. The following law in Lev 21:10–15 requires a high priest to "take a virgin of his own people to wife." Here the term *'am*, "people," will refer to the tribe of Levi.

11. The coupling of marital restrictions with rituals for the dead is found in sources about the ancient Iranian priestly caste (the Magi), but unique considerations apply. On the importance of the kinds of marriages the Magi could contract and their special role in regard to cadavers; also the importation of these matters into Zorastrianism, see R. N. Frye, "Zoroastrian Incest," in *Orientalia I. Tucci memoriae dicata*, ed. G. Gnoli and L. Lanciotti (Rome, 1985), 453.

12. See Hartley, *Leviticus*, 348.

13. According to Prov 28:2, an understanding prince is needed for the continued existence of a land.

14. See Jacob Milgrom, *Leviticus 17–22*, AB 3A (New York, 2000), 1807. For other views, see Hartley, *Leviticus*, 343.

15. Although the tradition in Judges is intent on depicting disorderly times, it is also likely that in actual Israelite life at any time, including the lawgiver's, adultery was not a capital offense but was left to the parties involved to work out its consequences.

16. The lawgiver may not be confining himself solely to sexual misconduct as the specific reason for casting her out, but simply to a woman whose previous marriage, for whatever rea-

son, has been dissolved. We do, however, have to take stock of the fact that the woman cast out (divorced) is cited along with the harlot and the (sexually) defiled woman.

17. Milgrom, *Leviticus 17–22*, 1808, is puzzled by the statement in Lev 21:8 that the Israelites must treat the priest as holy ("sanctifying him, treating him as holy"). He thinks that it does not fit into "the structure of the chapter" and has possibly been added for some aesthetic reason, perhaps to have the term "holy" recur *seven* times in verses 6–8! It fits well enough if the lawgiver has been taken up with the dramatic failure of the Benjaminites to treat the Levite with the respect due his office.

18. See Karl Elliger, *Leviticus* (Tübingen, 1966), 290, and Erhard Gerstenberger, *Leviticus*, trans. D. W. Stott, OTL (Louisville, Ky., 1996), 313. Milgrom is probably misinterpreting when he asks, "Why is she [a divorcee], but not a widow, forbidden?" to a priest (*Leviticus 17–22*, 1808). Because the law is a response to the narrative, we cannot say that it furnishes the norm for the actual institutional practice among Israelite priests. The issue of marriage to a widow is simply not in focus. (His statement on p. 1804, that "H permits a priest to marry a divorcee . . . " must be an error.)

19. David Jobling is nonetheless overstating when he writes, "These women are subject to the authority of the priests, so that they cannot be considered as entering voluntarily into these liaisons. The women are victims of exploitation. Their routinized rape continues the theme from the end of Judges." He goes on to compare the treatment of the Levite's wife in Judges 19 and the mass abduction of women in Judges 21. See *Berit Olam: Studies in Hebrew Narrative and Poetry; 1 Samuel* (Collegeville, Minn., 1998), 180.

20. See Boling, *Judges*, 275.

21. The background of the law in the story explains the puzzle of Gerstenberger and Milgrom as to why the lawgiver spoke only of errant daughters and not also of disreputable sons. He was indeed interested in the latter—only the narrator had taken care of judging them. Because each belongs with the other, we must not separate the laws from their influencing narratives. See Gerstenberger, *Leviticus*, 314; Milgrom, *Leviticus 17–22*, 1810. Milgrom's solution (p. 1819) to the puzzle about the age of the high priest when marrying is to suggest that his father, the high priest, would have designated him as his successor when he was young. Translating the phrase about the high priest in Lev 21:10 as "The priest who is preeminent among his fellows," Milgrom speculates that it may have in focus "an event where the son who was anointed as high-priest designate . . . did not succeed, due to a change in the priestly line" (p. 1812). Although we observe similar problems, the difference between our positions is again clear. My puzzling over a feature of the law coincides with an issue that comes up in a narrative, whereas Milgrom has to speculate about some unrecorded development that occurred in the history of ancient Israel.

22. P. Kyle McCarter sees a link between 1 Sam 2:22 and "the priestly legislation of the Tetrateuch." He thinks that the reading, which is found in the MT but not in a version of the LXX nor in one in the Dead Sea Scrolls, is an interpolation coming from priestly circles (*I Samuel*, AB 8 [New York, 1980], 81). If so, we would want to ask why and in what way were priestly circles working with the Samuel narrative.

23. I am reluctant to go as far as Mary Douglas who indeed claims that "Leviticus makes physical blemish correspond to blemished judgement" (*Leviticus as Literature* [Oxford, 1999], 46). For one thing, there is no hint in the text for that view; for another, the physical blemish

does not prevent the person from sharing in the sacred dues. In Prov 9:7, Job 11:15, and later Talmudic sources the word for blemish (*mum*) can refer to moral blemishes, for example, *b. B .M.* 59b (not to ascribe to your fellow your own blemish); *b. Kidd.* 70b (a person stigmatizes another with his own blemish). Milgrom asks, "Why is the biblical list of priestly blemishes restricted to the physical body, whereas blemishes of character and piety are omitted?" (*Leviticus 17–22*, 1821). The answer is again that, Genesis–2 Kings being a single work, the issues in the laws belong with those in the narratives and the two have to be evaluated together. In this instance, there is no question that the lawgiver is also concerned with priestly morality; only the concern comes from the background voice of the narrator of 1 Samuel 2, who reveals the same critical judgment as the lawgiver.

24. Critics comment on the cultic overtones of blindness and lameness in 2 Sam 5:6–8: David captures the Jebusite city of Jerusalem and he brings the Ark there from the place the Philistines had returned it to. See P. Kyle McCarter, *II Samuel*, AB 9 (New York, 1984), 138, 140; also Anthony Ceresko, "The Identity of 'the Blind and the Lame' (*iwwer upiseah*) in 2 Samuel 5:8b," *CBQ* 63 (2001), 23–30. I wonder whether there might not be a harking back to Eli's condition and what it signifies, namely, the loss of the Ark and the military defeat of the Israelites. The Jebusites had taunted David by declaring that he would not be able to take the city of Jerusalem because of the presence in it of the lame and the blind. That is, they are suggesting that, so long as there are lame and blind in the city, the Israelite god will not be active on David's behalf, and they will again experience defeat. McCarter sees a link between the reference in 2 Sam 5:8 to the lame and the blind not coming into the "house," that is, the sanctuary, and the rule in Lev 21:16–23 about priestly bodily defects. He thinks that the link is a secondary expansion but does not comment on why it exists.

25. I owe to Karl Elliger my introduction to biblical law. Terence McCaughey (School of Irish Studies, Trinity College, Dublin) and I were sent from Edinburgh University to Tübingen University as exchange students. Struggling to learn German, we chose to continue attending Elliger's classes because we were so impressed by the fact that when he came to class he appeared immaculately dressed in a different suit each time. He later invited us to attend his seminar on biblical legal material. Thus can the idiosyncratic determine one's lifework.

CHAPTER 7. LIFE AND LIES OF DAVID: LEVITICUS 22 AND 23

Epigraph: 2 Sam 22:27; Ps 18:26; cf. "Zeus fairly meting out unjust things to evildoers," Aeschylus, *Suppliant Maidens* 403.

1. Christian Eberhart highlights the link between 1 Sam 2:13–14, the sons' failure to offer the fat to God, and Leviticus 3, the fat of any peace offering must be turned into smoke. The link is not, in my view, fortuitous because it is precisely their wrongdoing that has inspired the construction of the rules in Leviticus 3. See "Beobachtungen zum Verbrennungsritus bei Schlachtopfer und Gemeintschafts-Schlachtopfer," *Bib* 83 (2002), 88–96.

2. David Daube corrects the misunderstandings and suggested emendations of those critics who read 1 Sam 2:12–17 as describing the customary practice of the time rather than as an indictment of the monstrous conduct of Eli's sons (*Sons and Strangers* [Boston, 1984], 20, 21; *BLL*, 171–72). H. W. Hertzberg, *I and II Samuel*, trans. J. S. Bowden, OTL (Philadelphia, 1964), 34, 35, is also in no doubt that Eli's sons are acting wholly contrary to what was enjoined.

"The fact that they acted 'while the meat was still boiling' is meant to show the greed which governed all their actions."

3. Baruch Levine points out that the wording of the warning in Lev 22:3 differs from the usual formulation. Ordinarily, one is cut off from kin or people. "Here, the idea is that God directly objects to the nearness of impure priests and does not wish them to stand in his presence." See *Leviticus*, JPSTC (Philadelphia, 1989), 147. The more directly threatening action on the part of the deity in the rule may reflect what occurs in the story.

4. On the condemnation of those who, on account of their lust for meat, set aside the rules about carrion, see *b. Sanh.* 27a and comments of J. J. Petuchowski, "*Mumar*—Study in Rabbinic Psychology," *HUCA* 30 (1959), 184.

5. Commentators are uncertain what to do with the designation *qodeš*. They automatically translate it as a collective noun to include all priestly offerings. Milgrom comments, "Clearly this [*qodeš*] must refer to the priestly prebends [dues] that may be shared by the priest's family." But it is not so clear. *qodeš* may be a singular noun and specifically refer to the showbread. The lawgiver generalizes when he goes on to use the term *qodešim*, "holy things," in verse 12, which makes it all the more likely that *qodeš* is not a collective noun. See Milgrom, *Leviticus 17–22*, AB 3A (New York, 2000), 1861; Erhard Gerstenberger, *Leviticus*, trans. D. W. Stott, OTL (Louisville, Ky., 1996), 326.

6. It is not necessarily that of the narrator's, although I suspect that it is. That the story presented difficulties to interpreters is clear from the interpretation put on it by Jesus in the Gospels (Mark 2:23–28; Matt 12:1–8; Luke 6:1–5). Seemingly unaware of the story's context (and giving the wrong name of the priest), Jesus views David's action as licit and somehow justifying his disciples plucking ears of grain on the Sabbath. For Rabbinic claims that David's action was licit; see H. L. Strack and P. Billerbeck, *Kommentar zum Neuen Testament aus Talmud und Midrasch* 1 (Munich, 1922), 618–19.

7. Commentators emphasize that in light of Lev 25:44–46, permitting an Israelite to enslave foreigners only, the slave in the rule in Lev 22:11 must likewise be foreign. See Gerstenberger, *Leviticus*, 326; Milgrom, *Leviticus 17–22*, 1863.

8. The term *'azar*, "to keep sacredly apart," is also used to describe when David and his men keep themselves from women. In the rule in Lev 22:2, about unclean priests who must keep themselves separate from the offerings, the term is *nazar*. The expression *tošab kohen wešakir* (a resident hired servant of the priest) in Lev 22:10, is, as Milgrom points out (*Leviticus 17–22*, 1861), a hendiadys, a single reference conveyed by the words that are connected by a conjunction. The hendiadys describes, I suggest, someone like Doeg who is temporarily resident in the sanctuary. Doeg's presence there presumably also inspired the example of a foreign person purchased by the priest for permanent residence.

9. David requested five loaves of bread from the sanctuary. The penalty in the rule is the full value of what was taken, plus a fifth.

10. See J. E. Hartley, *Leviticus*, WBC 4 (Dallas, 1992), 356.

11. Milgrom, *Leviticus 17–22*, 1871. Malachi 1 condemns priestly presentation of blemished sacrifices with no reference to any corresponding complicit lay offense.

12. S. Z. Aster correctly upholds, on the basis of Neo-Assyrian and Ugaritic texts, the MT reading "chief of the herds." He also makes an interesting case, on the basis of Hittite texts, for linking Doeg's shepherding role to his military role in the service of Saul. See "What Was

Doeg the Edomite's Title? Textual Emendations versus a Comparative Approach to 1 Samuel 21:8," *JBL* 122 (2003), 353–361.

13. Peter Ackroyd speculates, "Was Doeg perhaps a religious official, a herdsman of temple flocks, held at Nob by religious constraint and strangely used by God to bring disaster?" See *The First Book of Samuel*, CBC (Cambridge, 1971), 171.

14. Hertzberg, *I and II Samuel*, 188, likens Doeg's deed to a perverse use of the ban (*ḥerem*), the destruction that passes as a sacred act.

15. See Gerstenberger, *Leviticus*, 331; Milgrom, *Leviticus 17–22*, 1884, who writes, "It should be obvious that both sexes are included in *šor* and *beno*, which should be rendered "ox" and "its young."

16. Roland De Vaux, *Ancient Israel: Its Life and Institutions* 2 (New York, 1961), 470, suggests that "the first day of a month [the time of the New Moon feast] was chosen for the annual sacrifice on behalf of the clan."

17. Milgrom states that the New Moon feast is not included in the list in Leviticus 23 because it lacked the sacred character that belongs to Yahweh's fixed times (*Leviticus 23–27*, AB 3B [New York, 2001], 1958, 2011). On account of a different bias, as I will note, the calendar in Num 28:11–15 lists it.

18. A. F. Kirkpatrick, *The First Book of Samuel*, CBSC (Cambridge, 1886), 183. In his interpretation of the incident, Jesus assumes that it occurred on the Sabbath (see note 6). This was also the Rabbis' view (*b. Men.* 95b). Kirkpatrick's observation would also address Ackroyd's and Hertzberg's bewilderment about the lack of ordinary bread at such a large sanctuary as Nob. See Ackroyd, *First Samuel*, CBC, 170; Hertzberg, *I and II Samuel*, 179. Pamela Reis also wonders why a town with eighty-five priests could not have supplied common bread to David, but for her his request is a charade that is designed to deceive the listening Doeg; see "Collusion at Nob: A New Reading of 1 Samuel 21–22," *JSOT* 61 (1994), 60, 65.

19. Milgrom's solution to the problem of finding that the rule about the Sabbath is attached to the list of festivals is to claim that it has been added (not at the end of a list of rules but at the beginning of it) after the Exile when the Temple and its feasts belonged to the past but the Sabbath rest continued to be observed; see *Leviticus 23–27*, 1956. While certainly plausible, we would still wish to know what particular evidence links the text about the Sabbath rule to the Exile. Also, why did those who supposedly added the rule to existing rules about the special sacred occasions—which, as formulated in Leviticus 23, Milgrom takes for granted as dating from preexilic times—not see the disconnect between the Sabbath day and the fixed annual festivals? Milgrom's position illustrates well the difference between our approaches. We both appeal to historical facts (the incident at Nob in David's time and the exile respectively) that come to us from a literary composition (Leviticus and the Historical Literature). What then is the difference? For me, the incident at Nob is ancient history in the lawgiver's time and his reflection on it has prompted the rule's formulation. For Milgrom, the occasion of the Exile has triggered the rule at the time the Exile began. To be sure, I do not exclude the possibility that, yes, the Exile may have contributed to the setting down of the rule, but the lawgiver primarily dwelt on an infraction by the founder of the House of David.

20. Rabbinic sources explicitly indicate that the new moon determined the dates of the various festivals (*b. R. Sh.* 24a).

CHAPTER 8: BLASPHEMIES: LEVITICUS 24

Epigraph: David Daube in Calum Carmichael, *Ideas and the Man: Remembering David Daube*, Studien zur europäischen Rechtsgeschichte, vol. 177 (Frankfurt, 2004), 19.

1. Jacob Milgrom, *Leviticus 23–27*, AB 3B (New York, 2000), 2082, 2083.

2. We might recall the comparable linking of the physical and the moral when Eli's blindness is associated with his failure to do anything about his sons' bad conduct (chapter 6 on Lev 21:16–24).

3. Peter Ackroyd points out that when David said to Abiathar, the one priest who escaped the slaughter, that he knew Doeg would inform Saul about what had transpired between Ahimelech and David at the Nob sanctuary (1 Sam 22:22), David is probably seeing himself "as the instrument of God's judgement on the house of Eli, pronounced in 2:27–36 and now completely fulfilled" (*The First Book of Samuel*, CBC [Cambridge, 1971], 179).

4. Where there is a conflict of norms, the view that serving the sanctuary takes precedence over observing the Sabbath, is found elsewhere in biblical sources. Num 28:9, for instance, states: "And on the Sabbath day two lambs of the first year without spot . . . the burnt offering of every Sabbath, beside the continual burnt offering and its drink offering." Cf. Matt 12:5, "Or have ye not read in the law, how that on the sabbath days the priests in the temple profane the sabbath, and are blameless."

5. H. W. Hertzberg refers, somewhat puzzlingly, to David's "tissue of lies," and how he is "compelled to be a perfect liar" yet "remains in the sphere of the holy" (*I and II Samuel*, trans. J. S. Bowden, OTL [Philadelphia, 1964], 179, 180).

6. In the biblical period, the child of a foreign man and an Israelite woman has the status of the father. It is not until postbiblical times that the rule changes, and the mother's status becomes the important one. See David Daube, *Ancient Jewish Law* (Leiden, 1981), 22–32; *NTJ*, 481–88.

7. Blasphemy can take different forms. Jesus tells a sick and lame man that his sins are forgiven. The scribes are (justifiably) shocked and remark, "This man blasphemeth" (Mark 2:1–12). David's ready use of a lie, for instance, about the holiness of his nonexistent companions, if not blasphemous, surely verges on it.

8. On just how extensive is the mirroring aspect of the punishments meted out to Ahab and Jezebel, see Calum Carmichael, *The Spirit of Biblical Law* (Athens, Ga., 1996), 111–17.

9. "Eine Verschärfung der Todesstrafe," the phrase used by C. F. Keil and F. Delitzsch in *Commentar über das Alte Testament*, 2nd ed. (Leipzig, 1870), 2:510, and applied to the man who is first executed and then has his body hanged for public view (in the rule in Deut 21:22, 23).

10. Compare the "further Terror and Mark of Infamy"—the body was to be delivered to the surgeons for dissection—added to the punishment of hanging in the 1752 Murder Act (England). See Peter Linebaugh, "The Tyburn Riot against the Surgeons," in *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, ed. Douglas Hay (New York, 1975), 76–78. See also Carmichael, *The Spirit of Biblical Law*, 105–25.

CHAPTER 9: THE YEAR OF JUBILEE: LEVITICUS 25

Epigraph: Lev 18:3.

1. See the volume of essays: Hans Ucko, ed., *The Jubilee Challenge: Utopia or Possibility* (Geneva, 1997).

2. Indispensable for a survey of the work done on Leviticus 25 is the exhaustive and erudite study of Robert North, *Sociology of the Biblical Jubilee*, Analecta Biblica 4 (Rome, 1954). References to works before 1950 come from his study.

3. Contrariwise, Alfonso Tostado, writing in the sixteenth century, points out that if the slave's service begins close to a Jubilee year, he might only serve a year, or even a few months; see *Commentario in Leviticum* (Venice, 1596), 283.

4. Roland de Vaux, *Ancient Israel: Its Life and Institutions* (London, 1961), 175.

5. So Bernardus Eerdmans, *Alttestamentliche Studien*, vol. 4, *Das Buch Leviticus* (Giessen, 1912), 123, when he characterizes as a surrealistic gloss Lev 25:20–22 (the provision of food for three years from the harvest of the sixth year).

6. So Alfred Bertholet, *Leviticus* (Tübingen, 1901), 87.

7. N. K. Gottwald, "The Biblical Jubilee: In Whose Interests?" in Ucko, *The Jubilee Challenge*, 36.

8. North, *Sociology*, 134; also J. A. Fager, *Land Tenure and the Biblical Jubilee*, JSOTSS 155 (Sheffield, 1993), 110.

9. Representative of this attempt to suggest an appropriate historical context for Leviticus 25 is Fager, *Land Tenure*, 45–51. B. A. Levine similarly thinks that Leviticus 25 and Nehemiah 5 share the same historical setting in the postexilic period: "The priestly leaders of the repatriated Judean community formulated a theory to legitimize their situation" (*Leviticus*, JPSTC [Philadelphia, 1989], 274).

10. So North, *Sociology*, 120.

11. See G. C. Chirichigno, *Debt-Slavery in Israel and the Ancient Near East*, JSOTSS 141 (Sheffield, 1993), 306; North, *Sociology*, 116.

12. North, *Sociology*, 129–33; Chirichigno, *Debt-Slavery*, 318–21.

13. North, *Sociology*, 153–57.

14. See, for example, J. J. Finkelstein, "Ammisaduqa's Edict and the Babylonian 'Law Codes,'" *JCS* 15 (1961), 91–104. Ammisaduqa's *misharun* from around 1640 B.C.E. is the only example of a fully preserved edict.

15. Levine, *Leviticus*, 172. Moshe Weinfeld's study, *Social Justice in Ancient Israel* (Jerusalem, 1995), is the most comprehensive yet in laying out such a thesis. I shall return to it.

16. North, *Sociology*, 119.

17. In Plato's *Timaeus* 18D, Socrates says to Timaeus, "Or is that easy to remember because of the unusualness of what was said?"

18. "The jubilee laws are a fundamental and particularly impressive indication of Israel's characteristic view of Jahweh as the real owner of the land." See H. J. Boecker, *Law and the Administration of Justice in the Old Testament and Ancient East*, trans. J. Moiser (London, 1980), 91; cf. J. E. Hartley, *Leviticus*, WBC 4 (Dallas, 1992), 433; Martin Noth, *Leviticus*, trans. J. S. Anderson, OTL (London, 1965), 186.

19. In his *Sociology*, 118, North mentions this likelihood. He also cites the rationalizing view of J. D. Michaelis, *Mosäisches Recht* (Reutlingen, 1793), 2:34, that the blessing on the harvest of the sixth year refers to the completion of the abundance stored up in the other years. In addressing the issue of how the people are to be fed when the land lies fallow for a year, Erhard Gerstenberger, *Leviticus*, OTL, trans. D. W. Stott (Louisville, Ky., 1996), 376, states, "Joseph's own clever management of stores in Egypt (Gen 41:47–57) may serve to illustrate the tradents' thinking at this point." Gerstenberger also points out (p. 375) that the rest from work on the seventh year only applies to tillable land. Nothing is said about other aspects of work in daily life. The reason, I think, is the focus on the famine in Egypt when there is necessarily a cessation from work on tillable land.

20. I mean expressly overcome in the sense that a policy is put in place to organize relief from starvation. No such policy is described for the famine that takes Abram to Egypt (Gen 12:10).

21. Manifestly, a commemoration of divine providence in Joseph's Egypt could not have gone in for the totally unreal parallel of seven fallow years in succession. In an overly complicated manner, Weinfeld tries to make sense of the numbers by switching between the feast of weeks in Lev 23:15–21 (with its seven-times-seven weeks and a following fiftieth day) and references to a Nuzi document (fifty years as the maximum time to mortgage a man for debt) and a Babylonian document from the Seleucid period (fifty years as the maximum time for enslavement because of debt); see *Social Justice*, 175, 178.

22. Not surprisingly, interpreters cite texts (Isa 5:8; Mic 2:1, 2; Neh 5:3) pointing to oppressive forces in Israelite society that would cause the hardships (confiscation of land, debt enslavement), which the Year of Jubilee is meant to relieve. See North, *Sociology*, 37, 38; R. C. Ellickson and C. E. DiArcina-Thorland, "Ancient Land Law: Mesopotamia, Egypt, Israel," *CKLR* 71 (1995), 403. The lawgiver gave no hint, however, in Leviticus 25 that he was thinking of such oppressive forces and the explanation is that his focus was international: Yahweh's doings for the Israelites over against the pharaoh's for the Egyptians.

23. J. B. Skinner, *Genesis*, ICC (Edinburgh, 1910), 501. If, as seems certain, Skinner has the laws in Leviticus 25 in mind, he assumes that the Israelites actually observed them.

24. Levine, *Leviticus*, 272: "In Leviticus 25 we observe, curiously enough, a similar process [to what Genesis 47 describes]." Levine thanks H. L. Ginzberg for drawing his attention to the similarity; G. J. Wenham, *Genesis 16–50*, WBC 2 (Dallas, 1994), 448.

25. The significance of the term *yobel*, "Jubilee," engenders much discussion. The biblical terms *yebul* and *bul*, "yield of the harvest, produce from the earth" and *tebel*, "world," indicate, according to North, that the basic meaning of *yabal* is "to bring abundantly." He notes that by this line of reasoning one should conclude that *yobel* refers to a good harvest. He rejects this conclusion, however, because he states that it is precisely such a harvest that is missing in the *yobel*, and he opts for the LXX's translation *aphesis*, "release." But even in regard to *aphesis*, he notes that the base meaning is *iemi*, which is roughly equivalent "to send, bring." In light of my thesis drawing a direct link between the *yobel* and the Joseph story, I find it at least suggestive that both the story and the legislation in Leviticus 25 is about Yahweh's abundant provision for the Israelites despite manifest deprivation. In other words, the notion of abundant growth from the land is what *yobel* does indeed highlight. The second fallow year, the one after the forty-ninth, is miraculously a year of abundance (because of the stored food).

North's (*Sociology*, 34, 102–5) comment about the term *yebul* in Lev 26:4, 20 is pertinent: "Two allusions to abundant crops, *yebul*, Lv 26,4.20, are at least coincidental reminiscences of *yobel*, the jubilee." The root of *ybl* compares with Akkadian *biltu*, from *wabalu*, "to bring," a term particularly used for yields from the soil. See N. P. Lemche, "The Manumission of Slaves—the Fallow Year—the Sabbatical Year—the Jobel Year," *VT* 26 (1976), 50, n. 36.

26. Egyptian sources indicate that the pharaoh's ownership of the land was sometimes real but oftentimes theoretical. There was much land in private hands. The biblical lawgiver appears to be under the sway of the fiction—much evidenced in Egyptian sources—that the pharaoh owned all the land. See J. G. Manning, "Demotic Egyptian Instruments of Transfer as Evidence for Private Ownership of Real Property," *CKLR* 71 (1995), 237–68; D. B. Redford, *A Study of the Biblical Story of Joseph*, SVT (Leiden, 1970), 237.

27. Baruch Levine links the rule to the postexilic situation during the Persian period when there were problems of a mixed population in Jerusalem and Judea; see *The Book of Leviticus: Composition and Reception*, ed. Rolf Rendtorff and Robert Kugler (Leiden, 2003), 20, 21. While I insist that the primary inspiration for the rule is the reaction to the Israelites in Egypt, I do not exclude the possibility of such a secondary link between the rule and the historical circumstances of the lawgiver.

28. North, *Sociology*, 99; Nathaniel Micklem, *Leviticus*, IB (Nashville, Tenn., 1953), 2:121.

29. The one other reference outside of the book of Leviticus to the Year of Jubilee is in Num 36:1–12. The heads of households of a Josephite clan bring to Moses the problem about the loss of inheritance to another tribe at the Jubilee should the daughters of Zelophehad marry men from outside the Josephite tribe. Num 36:1, 5, 12 expressly state that the households in question are those of the sons of Joseph. As we have seen, the issue of the loss of inherited land, about which the Year of Jubilee is set up to deal with, originally arose because of the policy in Egypt of Joseph, the eponymous head of the Josephite tribe, in dealing with the inherited lands of the Egyptians.

30. Peter Ackroyd claims that the terrible judgment that is to befall the nation harks back to the one that befell the priestly house of Eli (1 Sam 3:31–34). See *The First Book of Samuel*, CBC (Cambridge, 1971), 40.

31. The term for the harvest increase is *yebul*. See note 25.

32. "Clearly a later supplement"—Martin Noth, *Exodus*, trans. J. S. Bowden, OTL (London, 1965), 203; "This chapter has been added"— N. H. Snaith, *Leviticus and Numbers*, CB (London, 1967), 174.

33. The major problem for Weinfeld and others who see the ideology of the ancient Near Eastern kings transferred to the Israelite god, Yahweh, is to explain how this transfer has been accomplished. In claiming that ancient Near Eastern vassal treaties determine the Israelite religious order, these critics speculate that somehow the Israelites imitated, in order to oppose, the political arrangements of their neighbors. They assume that the development came about as a result of international politics, but it is difficult to imagine how such a transformation would have come about in actuality.

34. Gerstenberger, *Leviticus*, 441: "Prices probably reflect tariffs customary among slave traders." Wenham, *Leviticus*, 338: "To free themselves from the vow, they had instead to pay to the sanctuary the price they would command in the slave market."

35. Jacob Milgrom states, "One is inclined to associate the institution of the one-fifth with

the 20 per-cent levied by Joseph on all Egyptian produce (Gen 47:24)," but he gives no indication why he is so inclined and what exactly the association is; see *Leviticus 23–27*, AB 3B (New York, 2000), 1958, 2380.

36. In his *Genesis 37–50: A Commentary*, trans. John J. Scullion (Minneapolis, Minn. 1986), 39, Claus Westermann states, "The author has amalgamated the dreams with his story in such a way that they can be explained only out of the context in which they now stand." The integration of the laws into the narrative of Genesis–2 Kings is similarly sophisticated with the laws really only capable of full comprehension in the context of Genesis–2 Kings.

37. Weinfeld, *Social Justice*, 127. I fondly recall our regular meetings at his home in Jerusalem in 1965 when I was a student at the Hebrew University.

38. Ibid., 178.

39. Ibid., 16, 17.

40. Ibid., 156.

CHAPTER 10: THREE LAWS ON THE RELEASE OF SLAVES: EXODUS 21:2–11, DEUTERONOMY 15:12–18, AND LEVITICUS 25:39–46

Epigraph: Edmund Burke, *Speech on Conciliation with America*, 68.

1. See David Daube, *Studies in Biblical Law* (Cambridge, 1947), 42; also in *BLL*, 63.

2. J. Van Seters, "The Law of the Hebrew Slave," *ZAW* 108 (1996), 534. Strikingly lacking in so many of these discussions is detailed examination of the substance of the various texts.

3. I. J. Gelb states, "The term 'slave' can be discussed, but not defined. The ancient codes which treat so extensively of the institution of slavery, never bothered to define it, probably because it was impossible." See "Definition and Discussion of Slavery and Serfdom," *UF* 11 (1980), 283. G. C. Chirichigno nonetheless overstates when he writes that "the economic characteristics and the servant-master relationship of both semi-free citizens and chattel-slaves are similar." See *Debt-Slavery in Israel and the Ancient Near East*, JSOTSS 141 (Sheffield, 1993), 51.

4. Chirichigno expends considerable effort on the topic of Near Eastern debt slavery, but is strikingly short of evidence from the biblical material that would confirm the Exodus law as the equivalent Israelite law to CH 117 about debt slavery; see *Debt-Slavery*, 219. CH 117 reads: "If an obligation came due against a seignior and he sold [the services of] his wife, his son, or his daughter, or he has been bound over to service, they shall work [in] the house of their purchaser or obligee for three years, with their freedom reestablished in the fourth year." See *ANET*, 151. Jacob is not a debt-slave. The Laban-Jacob imbroglio, however, touches on the topic of slavery in other ways. For instance, when Leah and Rachel hire out Jacob for sexual services (Gen 30:16–18), they liken him to a slave who is kept or let out by his mistress as she pleases. See David Daube, "Concerning Methods of Bible-Criticism: Late Law in Early Narrative," *ArOr* 17 (1949), 97, 98; *BLL*, 87.

5. Other laws took up other aspects of the legend. The three laws in Exod 22:7–15 (deposit, safekeeping of animals, liability of borrower), have, respectively, come under review in Jacob's dispute with Laban about possessions, his role as keeper of Laban's animals, and his wages from breeding them. See Calum Carmichael, *The Origins of Biblical Law: The Decalogues and the Book of the Covenant* (Ithaca, 1992), 149–58. In his laws in Deut 21:10–14 (captive

woman whom an Israelite wishes to marry); 21:15–17 (loved/hated wives), and 22:13–21 (the rejected bride), the Deuteronomic lawgiver looked at, respectively, Jacob's surreptitious removal of Leah and Rachel from Laban's household (Genesis 31), his treatment of Joseph as the favored son because of his love for Rachel (Genesis 37), and his fraught acquisition of Leah as a wife (Genesis 29). See Calum Carmichael, *Law and Narrative in the Bible* (Ithaca, 1985), 139–42, 210–14. In his laws in Lev 18:18 (marriage to two sisters), 18:19 (menstruation), and 19:13 (robbery and timely wages), the Leviticus lawgiver looked at, respectively, Jacob's problems with his marriages to two sisters (Genesis 29), Rachel's sitting on her father's household gods (Genesis 31), and Jacob's alleged theft of them (Genesis 31). See Calum Carmichael, *Law, Legend, and Incest in the Bible: Leviticus 18–20* (Ithaca, 1997), 46–51, 75–77.

6. I should emphasize that the lawgiver viewed the story from a particular angle: he is not carrying over into the law the legal situation in the narrative—whatever exactly that situation is. We must bear in mind the role of deception that is so characteristic of so many narratives in Genesis and which itself must have acted as a spur to a lawgiver to work his way through the tangles.

7. Chirichigno also sees a close link between Jacob's time with Laban and a slave's acquisition of a wife from a master in Exod 21:4. He even goes so far as to suggest that the woman may be the owner's daughter (she is referred to as an *'išah*, not as an *'amah*). See *Debt-Slavery*, 228–29. Noting the links between the law and the narrative, he thinks it likely that "the law in Exodus may have the background of Genesis 29–31 in mind" (p. 229). He sees similar links between the Deuteronomic slave law and both the Laban and Exodus stories (pp. 287–88). He does not comment as to why in these specific instances he looks to the narrative to explain the law. I presume that he is agreeing with my analysis in *The Origins of Biblical Law*, 79–97.

8. Chirichigno, *Debt-Slavery*, 236. On my analysis, Moses has imported Laban's objects into his rule. My sense is that, because Laban's household gods end up in Jacob's home without any comment about the development in the narrative, the lawgiver judged that such gods are not idolatrous when attached to a home.

9. On the significance in Greek and Hebrew sources of family members who are sometimes accounted as strangers, see David Daube, *Sons and Strangers* (Boston, 1984); *BLL*, 157–88.

10. When critics analyze these laws independent of any possible link with the narratives, they too come to similar judgments about the curious slave but more than a slave status found in them. See, for example, Chirichigno (not in this matter postulating any link with the Jacob-Laban story): "most likely closer to the status of a free person than that of a chattel slave" (*Debt-Slavery*, 255); J. I. Durham: "less [status] than a full citizen but more than a full slave" (*Exodus*, WBC 3 [Waco, Tex., 1987], 321).

11. The law makes no reference to the woman being a Hebrew possibly because unlike the case of the male slave, which has the Hebrew Jacob in focus, the case of the concubine has the Aramean Leah in focus.

12. Some textual variants of the LXX, however, did read *lo'*, "not." See J. W. Wevers, *Notes on the Greek Text of Exodus* (Atlanta, 1990), 326, n. 13.

13. As L. M. Epstein points out, it is not a full marriage with a bride price but a secondary one with a purchase price. See *Marriage Laws in the Bible and Talmud* (Cambridge, Mass., 1942), 58.

14. S. R. Driver is alert to the redundancy, even though he accepts the emended reading; see *Exodus*, CBSC (Cambridge, 1911), 214.

15. See J. Z. Lauterbach, ed., *Mekilta de-Rabbi Ishmael*, vol. 3 (Philadelphia, 1935), 24. C. F. Keil and F. Delitzsch think that another Israelite has to be the one redeeming her and not her father because, they assume, he would be too poor to buy her back. Again, however, Laban's relationship with Jacob provides illumination. Laban is not poor. See *Biblical Commentary on the Old Testament* 2 (Edinburgh, 1887), 131.

16. In response to my analysis, Gershon Hepner drew my attention to this possible link between the law and the narrative. The Massoretes suggested that instead of reading *bagad*, *ba' gad*, "*fortune came*," should be read. Their emendation may be unnecessary. The term *bagad* would not then, as translators down the ages have thought, express Leah's positive assessment about Gad's birth.

17. S. R. Driver struggles with the difficulty (*Exodus*, 214). Keil and Delitzsch are also aware of the problem but avoid it by arguing that it is the son's wife who must be in focus (*Commentary*, 2:131). Laban, it should be noted, expresses concern about Jacob's taking wives in addition to Rachel and Leah. Having reason for concern, because of Jacob's treatment of Leah, Laban wishes an assurance from Jacob that each will be treated with a status appropriate to a wife (Gen 31:50).

18. Ze'ev Falk, *Hebrew Law in Biblical Times* (Jerusalem, 1964), 156.

19. See David Daube, "Unjust Enrichment: A Might-Have-Been," *RJ* 9 (1990), 292; *BLL*, 556.

20. See S. M. Paul, *Studies in the Book of the Covenant in Light of Cuneiform and Biblical Law* (Leiden, 1970), 56–61.

21. See Etan Levine, "On Exodus 21:10 *'onah* and Biblical Marriage," *ZABR*, 5 (1999), 133–64.

22. See Carmichael, *Law and Narrative*, 299–303.

23. So correctly E. W. Hengstenberg, *Beiträge zur Einleitung ins Alte Testament* (Berlin, 1831), 3:439, cited by S. R. Driver, *The Book of Deuteronomy*, ICC (Edinburgh, 1902), 182. All that Driver (p. 183) can say about the omission of the wife and family of a slave in Deuteronomy is that the lawgiver disregarded the issue.

24. The text in Exod 12:38 about the "mixed company" that accompanied the Israelites when they left Egypt could possibly include Egyptian wives. David Daube raises this possibility in *The Exodus Pattern in the Bible* (London, 1963), 53; *BLL*, 131.

25. Thus Epstein thinks that at an early stage of Hebrew society, at the period of time from which the Exodus rule supposedly emerged, there were no unmarried female slaves because of the "corporate nature" of the patriarchal family. Males would have become slaves to pay off a debt, but females were not sold into slavery because they brought in money through marriage. Later, at the time of Deuteronomy, the notion of individual responsibility had developed, women had more independence, and consequently might have found themselves in debt and gone into servitude to pay it off. See *Marriage Laws*, 57, 58. Epstein's view is simplistic; for example, the notion that corporate responsibility gives way over time to individual is not tenable. At any period of time, ancient and modern, there is a complex interrelationship between the two types of responsibility.

26. Van Seters, "The Law of the Hebrew Slave," 541.

27. Driver, *Exodus*, 211.

28. Driver points out that the writing of words on a doorpost is an Egyptian custom and indicates that the house has come under the protection of a tutelary deity. He thinks the Egyptian custom "has been accommodated to the religious creed of the Hebrews" (*Deuteronomy*, 93). If so, it is the Deuteronomist's contemporary knowledge of the Egyptian custom that applies, not any historical influence of the Egyptian experience of slavery on the law.

29. Exod 11:1 should possibly read, "as one letteth go a slave-wife shall he [the pharaoh] surely expel you hence." See Daube, *The Exodus Pattern*, 58, and *BLL*, 134, citing Reuven Yaron, "On Divorce in Old Testament Times," *RIDA* 4 (1957), 122–24.

30. David Daube sees parallels between the two stories precisely in regard to the notion of a master's provision of material benefits to a departing slave (*The Exodus Pattern*, 66–72; *BLL*, 139–43).

31. A. B. Ehrlich, *Randglossen zur hebräisches Bibel* 1 (Leipzig, 1908), 295–96; also Chirichigno, *Debt-Slavery*, 292–93.

32. M. Tsevat, "Alalakhiana," *HUCA* 29 (1958), 125–26.

33. J. M. Lindenberger, "How Much for a Hebrew Slave? The Meaning of *mišneh* in Deut 15:18," *JBL* 110 (1991), 479–82. Tsevat responds in, "The Hebrew Slave According to Deuteronomy 15:12–18: His Lot and the Value of His Work with Special Attention to the Meaning of *mišneh*," *JBL* 113 (1994), 587–95. The problem with the new argument is his assumption that the law represented statutory legislation and must reflect some social reality. The idiosyncratic aspect of the narrative again, as I am about to note, explains the oddity in the law.

34. The rule in Deuteronomy that follows the rule about the release of slaves—in particular, immediately after the issue in it about the master's difficulty in letting them go—is one about an apparently unrelated topic, the consecration to God of the firstborn of an Israelite's animals (Deut 15:19–23). The topics in the narrative—Pharaoh's harsh attitude in releasing slaves and God's response by killing the Egyptian firstborn—account for both the choice and bewildering sequence of topics in the laws. Thus we have the release of slaves followed by the requirement that an Israelite kill the firstborn of his animals and give them to God (Deut 15:19–23).

35. C. F. Keil and F. Delitzsch had already noted that the relationship between the Israelites and Yahweh, their God-King, resembled the relationship between the Egyptians and their king. See *Biblical Commentary on the Old Testament* 1 (Edinburgh, 1869), 380.

36. Not "They shall not be sold as bondmen" (AV, similarly RSV and NRSV). The JPS translates correctly: "They may not give themselves over into servitude," that is, the slave, not the master, is blamed. See Daube, *Sons and Strangers*, 30; *BLL*, 177.

37. At all periods in Egypt there was in fact free landed property; see D. B. Redford, *A Study of the Biblical Story of Joseph*, SVT (Leiden, 1970), 1970, 237. See also chapter 9, note 26. It is the clash between this historical reality and the reality that is assumed by the lawgiver which underlies the views of Claus Westermann and Gerhard von Rad about the nature of the Genesis narrative. For Westermann, Gen 47:13–26 is an intellectual construction (*Genesis 37–50: A Commentary* [Minneapolis, Minn., 1982]), 173), and for von Rad, the narrative is schematic and reflects theoretical and etiological interests (*Das erste Buch Mose*, ATD [Göttingen, 1949], 357). The Leviticus rules in turn are, I am claiming, hypothetical constructions.

38. In a rhetorical aside with no attempt to spell out the implications, Milgrom states,

"Who was the author of this [Egyptian] policy—Joseph. And who became its main victims—Joseph's descendants. . . . Our text's message is loud and clear: in Israel, this must not happen!" See *Leviticus* 23–27, AB 3B (New York, 2001), 1958, 2192. For my prior, detailed analysis of this point, see my article "The Sabbatical/Jubilee Cycle and the Seven-Year Famine in Egypt," *Bib* 80 (1999), 224–39.

CONCLUSION: THE INSEPARABILITY OF BIBLICAL LAWS AND NARRATIVES

1. S. E. Loewenstamm, "Exodus xxi 22–25," *VT* 27 (1977), 355.

2. See Calum Carmichael, *The Origins of Biblical Law: The Decalogues and the Book of the Covenant* (Ithaca, 1992), 34–37.

3. Jacob Milgrom, *Leviticus* 23–27, AB 3B (New York, 2001), 2105, assumes that "there was an ancient narrative tradition of Moses' indecision concerning . . . points of law. . . . It can hardly be coincidental that all four cases are said to have arisen in the wilderness. Although the historicity of the Mosaic attribution can justifiably be suspected, there can be no doubt that the cases themselves must have arisen early in Israel's history." Despite his statement to the contrary, Milgrom comes close enough to opting for a historical Moses who was involved in the making of each of the four laws. I would point out that in regard to Moses's supposed hesitancy in coming to a judgment about the fate of a blasphemer, it is not a matter of indecision but the need to affirm that Moses in his time upheld the procedure that was later used against Naboth.

4. My thesis might go some way toward illuminating later developments in Jewish law. In Rabbinic literature, the common perception is that the Pentateuch consists of the lives of the patriarchs and a large number of laws. The stories are told because they illustrate the laws with a view to showing how reasonable they are and how they can be fulfilled in actual life. The earlier Jewish philosopher Philo, however, has this construction round the other way and in my view is much closer to the original biblical position. For Philo, the patriarchs Noah, Abraham, Joseph, etc., are kings whose lives exhibit the unwritten laws of ancient Israel, and the written laws of the Pentateuch are, in turn, deductions from the unwritten ones (*Abr.* 1.3–4; *Mos.* 1.162).

5. Jacob's sons' condemnation of Shechem's seduction of Dinah in Genesis 34 reflects the spirit of the lawgiver(s), as does the emphasis on mirroring punishment when Laban cheats Jacob in retribution for Jacob's cheating Esau (Gen 25:29–34; 27; 29).

6. Charles Montesquieu in the eighteenth century gave major impetus to this theory of law as a mirror of society; see *De l'esprit des lois*, book 1, ch. 3 (1748).

7. If we heed the influential thesis of the legal historian Alan Watson, however, about the enormous role of transplanted rules in legal systems, even this correlation has to be qualified. Rules borrowed from one legal system and transplanted into another often, because of changed circumstances, fit badly into their new setting. See *Legal Transplants*, 2nd ed. (Philadelphia, 2001).

8. Lynn Lopucki and Walter Weyrauch, "A Theory of Legal Strategy," *DLJ* 49 (2000), 1405, argue that even when cases come before the courts, unwritten rules and social norms indirectly communicated, usually in anecdotal form and incorporating current myths, really determine the outcome. In ancient Greece, written laws that were cited in court might be

ignored in favor of public opinion that brought into play ideas of equity. See J. W. Jones, *The Law and Legal Theory of the Greeks* (Oxford, 1956), 135.

9. See Walter Weyrauch, "Aspiration and Reality in American Law," in *Law, Morality, and Religion: Global Perspectives*, ed. Alan Watson (Berkeley, 1996), 222.

10. Plato, *Phaedrus* 274E.

11. See Peter Conradi, *Iris: The Life of Iris Murdoch* (New York, 2001), 127. To be sure, there is much more to be said about the concept. Holiness comes into play whenever humans harness the notion of divine activity in efforts to exercise control over other humans. Where such attempts are made, caution and exactitude are prominent. When Uzzah, for example, accidentally touches the Ark of the Covenant, he is struck down dead (2 Sam 6:6). The fatality happens, the claim is, not because the distinction between an accident and a premeditated act goes unnoticed, but because the holy order has supposedly been disturbed. He should have been extraordinarily cautious. Oath, ordeal, and other magic are attempts to appropriate these higher forces. Such reaching out typically occurs where absolute standards are needed for one reason or another. Even today, an international treaty or a marriage is less readily annullable on the ground of duress or error than, for example, a property lease because, the well-being of an entire state or of children being at risk, a measure of sanctity attaches to each in a way that is much less true for a property lease.

12. Mary Douglas, "Atonement in Leviticus," *JSQ* 1 (1993–94), 118.

13. Thomas Mann's view that no modern society would ever wish to revive the ritual in which a live bird is dipped in the blood of a slaughtered one and then let go is consequently misplaced; see *The Book of the Torah: The Narrative Integrity of the Pentateuch* (Atlanta, 1988), 113.

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